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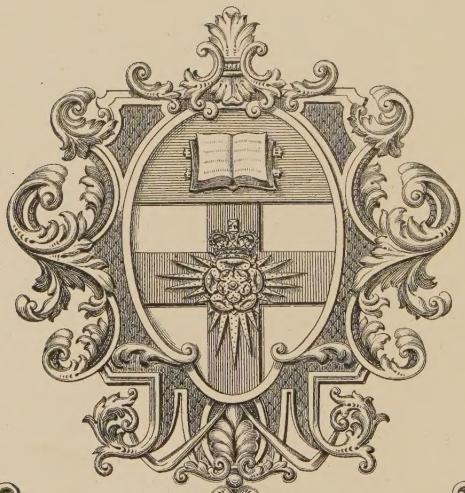


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TRANSACTIONS

OF THE

ROYAL HISTORICAL SOCIETY

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TRANSACTIONS

OF THE

ROYAL HISTORICAL SOCIETY

# PRESIDENTIAL ADDRESS

*Delivered* 14 *February*, 1929

By Professor T. F. Tout, D.Litt., LL.D., F.B.A.

## History and Historians in America

When I last had the honour to address this Society, I was on the point of starting for a tour in America. During some eight months I traversed the United States from sea to sea, from Boston to Virginia and from New York to Los Angeles, San Francisco and Seattle, finishing up in Canada, which I crossed from Victoria and Vancouver to Quebec and Montreal. I visited many universities and colleges and lectured at some thirty of them. I inspected numerous libraries and had speech with many score of historians. There was much that was wonderful and strange to see and hear, but it was seldom that I could realise that it was a foreign country. If Quebec seemed a city of a France that had known no Revolution, and Santa Fé took one back to a small Spanish city with an intrusive Anglo-American element, the common tongue was a great link between the wanderer and his new friends, and he was never more bucked up than when he was assured by a leading newspaper of no mean city that, despite his strong English accent, his public orations were nearly always easily intelligible!

It was hard to be otherwise than at home. It was impossible to feel homesick when the extraordinary kindness and hospitality with which America greets her visitors was lavished on every side. In recounting this, one is but repeating what all other travellers have said. It is enough to put it on record, and that with the greatest conceivable emphasis. It was as impossible not to be at home, officially as well as personally. As President of this Society, I felt that I was visiting the brethren located in distant lands. It was only gradually that I got to realise that something between a fifth and a sixth of our constituency lies over the Atlantic. Out of our 800 fellows, over 100 are American and Canadian. Out of our 300 subscribing and exchanging libraries, just one-third are libraries beyond the Atlantic. And there is no need to tell the members of this Society what important contributions America has made to our *Transactions* and to the Camden Series. Of our most ambitious undertakings—such as the Bibliography of Modern History—is not Philadelphia responsible for the sixteenth century, though that has unhappily not yet seen the light? Was not the published seventeenth-century volume finished in Chicago?

Reflecting on all these links stretching over the Atlantic, I felt that I could not do better than take as the subject of this, my valedictory address as President, History and Historians in America. It is a huge subject, and I must be content to limit myself to History in American Universities and Colleges and to the historical output of American historians. I must also not shrink from giving offence to my Canadian friends by speaking of America when I really mean the United States. But my visits to Canadian universities were brief. I saw the great universities of Eastern Canada on the verge of their vacation, and I passed by the strenuous young universities of the West in the height of summer. I must therefore mainly speak of what I saw most of. Even then, I must leave out much that I should dearly love to say.

I must not spend more time than I can help in emphasising some essential differences between British academic methods and ideals and those of the United States—a difference the more important for us to realise since it results in the same words being used in the two countries in such different senses that confusing and misunderstanding are likely to arise to representatives of both nations, when they cross the Atlantic and take stock of the doings of the other side. Thus, to take one example: "college" to us means academically something smaller than a university—whether it be an inchoate university that aspires to but has not yet attained university rank, or whether it be a smaller corporation within a university, sometimes so self-sufficing and powerful that the university tends to become a loose federation of colleges, with little life or spirit of its own and little mission save the conferment of degrees. In America the college is the undergraduate department: the university is the combination of this with the various schools of professional and post-graduate work which loom so much larger in America than with us. American universities are governed autocratically by Presidents, responsible to a small body of lay trustees, who seldom meet and generally leave things to the President. They are, therefore, like the Federal Government or the Railways, monarchical in constitution while their English counterparts are aristocratic, ruling through boards, councils and committees, whose endless meetings give the zealots for University business little time for the weightier matters of research, sometimes hardly enough for teaching. America has few honour schools, but a general pass course with an almost unlimited variety of options, extending over four years before the first degree of B.A. In this the utmost specialising possible is normally to take what is called a "major," that is a course in a single subject that extends over three years at least, but which is studied along with several other subjects. One result of this is that American examinations are more numerous,

but less strenuous and less vitally important. A whole life is not determined, as it is still sometimes with us, on the accident of being fit in a particular examination week.

In America real specialisation, in history as in everything else, only begins after the B.A. It is " post-graduate work " and it centres round the thesis, though there is also some examination work to be done before the goal is reached. A thesis of moderate originality leads to the M.A. ; a thesis of greater originality and extent may then be undertaken which leads to the Ph.D. And to take a Ph.D. is practically compulsory for all men and women who aspire to an academic career. In most cases you cannot become a professor until you have been stamped with this hall-mark. To facilitate the attainment of this rank and to train aspirants for it in historical method, there are, in every university where post-graduate work is done, seminars of great variety and complexity. The result is an enormous output of theses, which some universities —injudiciously I think—insist on being published in the form in which they were submitted to the examiners for the degree. Naturally they vary in merit, like English theses of the same sort : but these latter have the merit of being rarely set forth in print, and when they are printed, often years later, they have not seldom grown into something solid and presentable. Fortunately, the increasing cost of publication is turning American authorities towards realising that it is better to issue a few good theses, than a larger number of immature ones.

I must not tarry by further emphasising the differences between British and American universities. Yet it is important to remember that American schools seem, according to American testimony, less thorough and the results of their work less permanent, than is the case with the better sorts of British schools. The absence or rarity of compulsions, both at school and college, leads to a neglect of languages, and one of the weak points of the

American historical student is that he is even often less familiar with the tongues in which his sources are written than his English counterpart. In making this statement please do not think that I hold any illusions as to the adequacy of the linguistic equipment of many English aspirants to historical fame! But I am bound to confess that foreign languages, and especially Latin, are for many Americans a worse stumbling-block than even the lack of that broad basis of general historical knowledge that the honour school of almost any British university affords. Perhaps one grows more conservative as one gets older, but America certainly made me see that there was more to be said for honour schools and compulsory language subjects than in my hot youth I had ever dreamed was the case. It also taught me that the thesis, though a good servant, is a bad master, and that the cult of the repeated thesis is sometimes a mistake. If America had something like an English honour course for her M.A., and reserved her thesis for the Ph.D., the advantages of both systems might be retained and the disadvantages minimised. In adopting, rather too whole-heartedly, the German thesis system, the American reformers of a generation or two ago forgot that the German youth, when he went to the university, had had in his *gymnasium* a good old-fashioned, well-rounded education, and had passed an examination that might well be compared to the British or American pass degree.

In making this criticism I am ignoring one fundamental point. The German student at a university aims at a specialised professional or academic career. It is quite different in America, where it is becoming the fashion for every boy and girl to go to college, though after college the boy will go to business and the girl will adorn Society, just as much as if he or she had never been to college at all. Mass production of educated men and women is not impossible, though not so easy as Mr. Ford finds the mass production of automobiles. Mass production of real scholars is impossible, as some of the overgrown

American universities are beginning to realise. And what I am looking for now is historical scholars, not generally educated persons with a special interest in history.

Thus the very universality of the American educational appeal has its nemesis. Things, however, are gradually righting themselves, and, more and more, certain universities are beginning to stand out where the would-be historian can best be equipped for the race. There are the great universities of the East, strong in tradition and in endowment, with two or more centuries of history, and an absolute independence of state subsidy or control. There are the great state universities of the Middle West and the Pacific Slope, strong in their huge throngs of students, and in receipt of ample support from their respective states. Their *states*, I must emphasise, for nowhere is education the business of the federal government ; it is the affair of the forty-eight sovereign commonwealths called states, which make up conjointly the federation called the United States. It follows that the ideals and methods of education vary with the social and economic conditions, the outlook, the history and origins of the individual state. The variety of the outlook breaks the monotony of state control.

I am bound to say that the state governments—whose competence Americans themselves often strongly criticise —seem on the whole to have left the universities of their creation very much to themselves and that the political outlook does not seriously affect either academic freedom or studies. It is perhaps at its worst when it considers that professors should think twice before ploughing the son and daughter of a citizen of the state who pays his taxes regularly and expects his children to be turned out of college with the proper educational label. I don't think we need take seriously the Mayor of Chicago's crusade against textbooks with an anti-patriotic bias, inspired by the malignant and immortal " King George " who, after spending his youth in denying the Americans their

freedom, is devoting his declining years to feasting American professors that they may traduce their own country and glorify its enemies. Such tendencies may prejudicially affect school books, but they have little weight in university teaching. I am told—I know not whether rightly —that some intelligent American publishers publish different editions of school histories for northern and southern states. But university teaching in America is fairly free, and suffers, if at all, from the general tendency of the country towards uniformity and conformity of judgment. The modern historians of the "Colonial period" are admirably impartial. You find much more "American bias" in an old-fashioned Whig historian in England, like Sir George Trevelyan, than you get from the admirably trained and learned historians who do excellent work on the investigation, in their own land, of all phases of the American Revolution.

What sort of history do the American universities study, and what contributions do they make to historical knowledge? The answer to this question is not easy to give in a short compass. Naturally and properly their first concern is with their own national history, and no one can blame them for that. Equally properly, they are still more particularly concerned with the history of their own state or the group of states to which their commonwealth belongs. Beyond this, they look to Europe as a main source of their civilisation. This in the East generally means to Europe in general but to England in particular. To the French Canadian it means the *ancien régime* in France. To the Scandinavian and Teutonic Middle West it may often signify Norway or Sweden or Germany. To the Pacific Slope it means Spain and, after Spain, Spanish America. Moreover, in California special attention is paid to the history of what we should call Eastern Asia, notably China and Japan, whose influence on the Pacific lands and the Pacific Coast cannot be neglected. In the same way California has very serious

schools of Spanish-American and still more of Mexican history, just as in New England and its western offshoots, historical origins suggest the meticulous examination of the Elizabethan and Stewart England which sent forth its first colonists over the seas, and, beyond that, an appeal to the Middle Ages out of which the later Britain grew. The zest for quite recent history has gripped American as strongly as it has seized hold of British historians, and the wonderful collection of documents and records which President Hoover has presented to his own Stanford University enables, I can well believe, the origins and results of the Great War to be studied with at least as much particularity amidst the woods and bays of Palo Alto as in any of the European capitals. Altogether the hive of history is humming everywhere with busy workers. The honey which they produce, though appealing differently to different tastes, is, as a rule, sound, pure and good. We must be prepared for a great variety of output; we must recognise that the work of the prentice learning his trade is different from that of the masters. But the masters are there, and if they are few, they are few in any other land. But there are not many English workers on history who have not had reason to salute some American master whose work is to them an inspiration, and there are fewer still who have not pleasant memories of friendly talks and deep discussions with American comrades in their pursuit.

Mediæval History does not bulk largest among the fields to which American historians have devoted their attention. But we have for many years looked to the United States for a steady and increasing output of sound and original contributions to mediæval history and especially to the mediæval history of England. If I speak of these at greater length than I have been able to devote to other aspects of history, you must forgive me. But the cobbler who makes his shoes of mediæval leather is naturally inclined to think that there is nothing like his own particular sort of leather to make solid and lasting footwear,

and I am proud to be able to speak strongly both as to the quantity and the quality of mediæval research in America. It was not until I had spent many months in America that I fully realised the appalling difficulties amidst which the American mediævalist worked. The atmosphere of America, with its optimistic outlook to the future, and its profound conviction that the present and future are greater and better than the past, is not always very sympathetic to the investigation of remote antiquity. If this can be overcome, there is more fundamental trouble. The unpublished material on which the best work is necessarily based is nearly all three thousand miles away, even from the universities and colleges in or near the Atlantic seaboard. The mediævalist from California,[1] or Washington, has a week's weary and costly journey over another three thousand miles by train, the mediævalist from Colorado has a good two thousand miles by train before he can reach the places where steamers carry him another three thousand miles over the ocean. Such a scholar is lucky to be able to make the journey in a fortnight and for that he has to incur expenses that make a deep hole into the budget of even the most opulent of American professors. And when he arrives on this side, he has to support himself in costly cities like London or Paris, where prices are not, in my experience, very much lower than in the cities of his own land. And it is quite an illusion to think that American historians derive from their profession much higher remuneration than we on this side enjoy, while the swarm of research students who are only slowly mounting the ladder have to make sacrifices to their science which many of us would shrink from, sacrifices which would be impossible but for the liberality—which this country might well emulate—which "sabbatical years" and travelling bursaries and fellowships do something to minimise. Moreover, he has to work as

[1] I have carefully avoided mentioning names in this very rough survey, but I cannot forbear recording the grave loss to our science in the sudden death of Professor Paetow, of Berkeley, one of the strongest of western mediævalists.

a rule through the hottest and most uncomfortable season of the year when his British brethren are recuperating from their sessional labours among the mountains or on the seashores. Of course these difficulties are not confined to mediævalists. Indeed the modernist is in some ways worse off, for his material is infinitely bulkier, more scattered, and less well calendared and arranged. Nevertheless, they come—men and women students of all periods and of all aspects of history. They come here year by year in their scores, and no one of us of the Old World can work through a summer in the Public Record Office or the British Museum without adding largely and profitably to his American acquaintance. Some we may find who, inspired by a spirit of adventure and love of seeing new men and cities, have come rather earlier than they need. But most know their business and know what they are out to seek. One cannot speak with too great enthusiasm of the real hardships and sacrifices which they willingly incur in their zeal to advance their science. There are few among us in comparison who make their journey in the opposite direction. But those of us who do so meet with a welcome and a hospitality which may well make us feel how cold relatively has been our reception of these transatlantic pilgrims to the shrines of historical material.

I have hinted at the facilities with which most American institutions do their best to lighten the difficulties of the eastward-bound historian. Two other conditions must also here be stressed which make possible the devotion of American students and scholars to the history of the Old World and to the history of those countries in particular from which most of the American stock originally came. These are the excellence and accessibility of American libraries and the gradual accumulation in the American continent of great masses of manuscript material for European, and especially for British, history. Among the things for which I envied the American scholar most was the admirable organisation of the great University Libraries

of the New World. We on this side may have more precious rarities, but they, on the other side, know better than we do how to order a library so that the research student can have the greatest facilities for his work. I know of no university library which does more to help forward research than the great library at Harvard, where every professor has his study and the humbler research student has his little cubicle, where the earnest worker can gather around himself the indispensable tools that he has in constant use, while all have access to the well-arranged stacks, so disposed that books dealing with particular subjects are grouped together with a maximum degree of accessibility. And at New Haven I was privileged to see plans for an even more magnificent and convenient library building for Yale University which, I feel confident, are now rapidly being carried out in stone with the faith and enthusiasm that characterises all the great American seats of learning. Nor are these standing by themselves. In the newest of Western and Middle Western universities the library is fostered with a zeal, and at an expense, which put to shame the newer university libraries of England. As far as printed books go, the greater American libraries are exceedingly well equipped, and if some gaps must still be there, there is always the wonderful Library of Congress at Washington and the huge Public Library of New York, itself a synthesis of a whole group of collections, and the impressive Library of Columbia University.

In these great collections of books the American student can generally find what printed volumes he is in search of. The deficiency is rather in manuscripts and in older and rarer volumes, which are everywhere extremely difficult to procure. But these deficiencies are being rapidly supplied, and there are many public authorities and many millionaires who are doing their best to fill up the gaps. It would require years of study and travel to speak with authority upon these libraries, and, as I wish to speak on first-hand knowledge, I will confine my remarks to the one great

American private library at which I was privileged to work for some six weeks last summer. This is the Henry E. Huntington Library at San Marino, near Passadena in California, only a few miles from Los Angeles, the greatest of the cities of the Pacific Coast. Its history is, however, sufficiently typical to illustrate many other similar cases, though few, I imagine, have acquired so great a mass of manuscripts or so many rarities and curiosities. And I speak of it with the more alacrity since I found on my return to England last September a fierce controversy was raging in the newspapers in which zealots for British scholarships bitterly complained of the wholesale abstraction of our best manuscripts and unique early editions that they might be locked up in an inaccessible and remote spot in the Pacific Coast, where they are likely to remain permanently lost to scholarship.

With the lamentation that so much good material for history is passing out of this country, I can express a hearty sympathy. I believe that most scholars would welcome some sort of limitation on the export of our choicest documents and curiosities, such has long prevailed in Italy. But so long as the trade of exporting manuscripts and bibliographical curiosities is a legal one, we cannot blame too severely the ancient houses, struggling against hard times, for making what they can of possessions which have a greater appeal to the scholar than to most of those who own such treasures. Indeed, I would blame them more severely for the indifference which in too many cases they have shown to their ancient documents, indifference to the extent of not knowing what treasures they possess. Even more reprehensible is the curious way in which many of them have locked up their possessions and absolutely denied access to them, even to the best qualified of scholars. Thus many of the most historical family archives have never been brought before the eyes of the Historical Manuscripts Commission, a body that has done an immensity of good work and might, I venture to think, do even better work were

the eminent historians of modern periods sitting upon it afforced by a commissioner or two who has done good original work on mediæval historical materials. Unluckily "war economies" still only allow it a ludicrously inadequate income, so that it has accumulated manuscript calendars of various collections which it can only publish with exceeding slowness. Considering the amount of our post-war budgets, it seems an unworthy economy to hold up this good work for the sake of saving a few hundred pounds a year.

It is not enough, however, that the pre-war resources of the Commission should be restored. Post-war conditions clamour for further extension of its powers. It is surely a permissible argument that in any really civilised state such a responsible body as the Historical Manuscripts Commission ought to have a legal right to examine and calendar documents of historical value, and, if necessary, to prevent their exportation from the country. Unless scholarship is to lose sight permanently of much priceless historical material, we must prevent unrestricted free trade in the sources of our history. Apart from the danger of dispersion, there is still before us the fact that certain owners of historical manuscripts sternly refuse scholars access to them. Though many owners of historical material leave nothing to be desired in the way they give access to their treasures—and their number, I am glad to say, is much on the increase—there are cases where American scholars have been refused permission even to see them, and that not only from individuals who have some excuse for regarding them as their own private property, but from official custodians of public or quasi-public records. It is still, I fear, the case that the registers of some bishops remain inaccessible, or only accessible by the payment of fees beyond the means of the average scholar. Such churlishness is, I venture to think, at least as reprehensible as their sale outright. Fortunately, as regards bishops' registers, the number of peccant dioceses is now quite small, and most of them are reasonably easy of access.

If the prohibition of the export of historical manuscripts

and the compulsory calendaring of the manuscripts of recalcitrant owners are both outside practical politics, the least we can do is to make some efforts to keep track of manuscripts which do change owners or leave the country. An admirable beginning has been made in this direction by the Institute of Historical Research in London, though it has found real difficulties in accomplishing its task. It is vexing enough to find that manuscripts which have been calendared by the Historical Manuscripts Commission, have, like the Hastings manuscripts, been moved from Ashby-de-la-Zouch to California before the Commission's calendar had been put on the market. It is still more irritating when an uncalendared collection also takes its flight over the Atlantic. The task of recording for history's sake what there is in any of these collections can only be fully and perfectly accomplished, when it has been made legally necessary to record the sale of such manuscripts, whether within or without the country.

However these things may ultimately turn out, I think that we have no right to blame the wealthy Americans who, under expert guidance, purchase such documents as their owners are willing to sell. Some of the letters I read on my return last September suggested that the plutocratic purchaser bought his documents in order to keep them under lock and key and gloat over them for his own personal gratification. There may be such cases, but I should like to say with emphasis that the Huntington Library is not one of them. Its creator, a Californian railway magnate, spent huge sums in purchasing not only books and manuscripts, but a wonderful collection of eighteenth-century paintings and gave them a home in his own great house at San Marino, on the last of the foothills where the Californian uplands slope down to the plain of Los Angeles. He was not himself a scholar or a connoisseur; but he followed the best advice that he could get. His art purchases were extraordinarily happy and built up a most remarkable and coherent collection of masterpieces. As a

collector of books and manuscripts he was, I imagine, at first mainly wishful to bring together unique specimens, rare early editions, treasures of illumination and enrichment. But before he died, he handed over his treasures to a carefully selected body of trustees and empowered them to use the funds with which he endowed them to buy any books or pictures that might illustrate the history of civilisation. A wider commission could not be imagined, and the trustees are men who can be trusted to make a wise use of the discretion left to them. They have made up their minds not to be content with a museum of curiosities, but to combine with this a working library for scholars. It was on their invitation that I spent five or six weeks in one of the most beautiful places in the world, where the heats of summer were never so excessive as to prevent a northerner, like myself, working at full power. My mission was to report on their mediæval manuscripts and especially their historical manuscripts. My time was all too short for a comprehensive survey, but I had opportunities for taking general stock of the collection and that task was made more stimulating by working side by side with various American scholars who were similarly attacking other sides of the library. It will take years before the collection can be completely catalogued, classified and arranged. Gaps will have to be filled up; a considerable modern library of reference books will have to be purchased. But I should like to say with absolute emphasis that the library is already accessible to all properly accredited scholars, and that anyone who goes there will receive a most cordial welcome, and every help to pursue any line of study that he may wish to take up.

To the British mediævalist the library presents some extraordinary attractions and suggests some severe limitations. There is an enormous mass of charters, public and private, ranging from the twelfth century to the end of the Middle Ages. The basis of the manuscript store is found in several big English collections which Mr. Huntington

bought. The most complete is a wonderful assemblage of Battle Abbey manuscripts, the completest series that I struck. It came, I think, from the Phillips Library, and a rough catalogue of them was printed some eighty years ago, when, before Sir Thomas Phillips bought them, they were in vain offered for sale, I was told, to the British Museum, at a price which was then small and now seems ludicrous. They were not very accessible at Cheltenham, except to plutocrats who could pay a guinea a day for the privilege of working in the library. They are now open to the world, and afford material, not only for the history of a great Benedictine abbey, but for the economic and social history of many manors and hundreds in East Sussex and West Kent. It is no doubt a pity that they are so far away from the region where they were made : and I can sympathise with a Sussex archæologist being a little sore at their removal to the other side of the globe. But there they are, and there they are accessible, and there is something to rejoice that the American ecclesiologist or economic historian has a mine in which he has only to dig to find real treasures. Unluckily, the only Californian University where at present the study of mediæval history is strongly and ably pursued is at Berkeley, some four to five hundred miles away. But there are two big universities hard by at Los Angeles, within only a few miles, and as any American university is liable to sudden and vigorous expansion, it is not too much to hope that in time there may be a local school of mediæval history to reveal the treasures of Battle Abbey to the world. And a few hundred miles doesn't seem a big distance in America !

The other mediæval collections at the Huntington Library are less complete, but in some ways more attractive. There is, for instance, what are now called the Huntington Manuscripts, till recently the property of the late Mr. Rawdon Hastings of Ashby-de-la-Zouch. I spent a good deal of time in copying some of these, only to find when I got home that the Historical Manuscripts Commission has

just published the first of four volumes in which they will be described. But, luckily for me, some of the calendaring is so much abbreviated that a few characteristic " mentions " which I had noted are not recorded in the published volume. Besides this, there is the great Stowe Collection, whose " Grenville evidences " contains an immense assortment of mediæval documents, public and private. There are numerous important items bought at the various Phillips sales. There is a considerable proportion of the Ellesmere Manuscripts, including the remarkable Ellesmere Manuscript of the Canterbury Tales, which the Manchester University Press published in facsimile more than twenty years ago. There is a rich store of Middle English Manuscripts, which should attract literary historians. To all sorts of scholars alike the Huntington Library Management gives every facility for purchasing photographs and rotographs. But I must not go on any longer, and would not have tarried so long but that I feel that there are at present few scholars who have first-hand knowledge of it sufficient either to explain wherein its richness lies or to defend it from unwarrantable attacks, such as those to which I have already referred. It is some poor return for the kindness and hospitality I received at San Marino to do what in me lies to expound the true state of things about the Huntington Library.

# THE TRANSFORMATION OF THE KEEPERS OF THE PEACE INTO THE JUSTICES OF THE PEACE 1327–1380 [1]

By Professor Bertha Haven Putnam, Ph.D., F.R.Hist.S.

*Read* 10 *January*, 1929

For an adequate understanding of the significance of the " keepers " and the " justices " of the peace, precise answers are needed to several questions. How frequent were breaches of the peace and crimes of violence in the reign of Edward III ? Was the situation worse than in the reign of his father or than in the time of the Paston Letters ? The orthodox view of the universal prevalence of violence, long ago vividly presented by the late L. Owen Pike,[2] has been recently challenged in an article on the internal commerce of fourteenth-century England. Professor Willard's conclusion, based largely on transportation records, is that the " danger of the morrow's journey need not disturb the rest of travellers in an inn " and that " the transportation of goods (other than money) was to a high degree free from danger." [3] The material used by Pike, and other similar material, certainly afford arguments against so optimistic a theory. The speeches and petitions in parliament [4] and the language of the commissions of Trailbaston, of oyer and terminer, and of the peace, imply persistent attacks on travellers, especially when going to fairs and markets, and innumerable instances of highway robbery, mayhem and

[1] This study has been made possible by a grant from the American Council of Learned Societies. To Dr. Hubert Hall, of the Royal Historical Society, I am indebted for much kind assistance.

[2] *History of Crime*, 2 vols., 1873, especially I, chs. III and IV. *Cf.* also D. Hughes, *The Early Years of Edward III*, 1915, ch. XI.

[3] Speculum, I, 361–74.

[4] Noted in 1904 by C. A. Beard, *The Office of Justice of the Peace*, 34–5.

homicide. Nor does the language seem exaggerated as one examines the records of courts and the cases appearing on Close and Patent Rolls.[1] Without a quantitative analysis of all possible evidence, it is difficult to ascertain the truth as between these two conflicting opinions. Far more accurate statistics than Pike was able to give [2] are wanted ; for example, on the ratio between total population and the annual number of homicides, or between the number of travellers and the number molested.

Meanwhile, in the absence of statistics, the most convincing evidence for the reign of Edward III in support of the canonical theory is the multiplicity of agencies resorted to in the attempt to keep the king's peace and to punish crimes of violence. Apart from the older police measures like the Hue and Cry or the hundred murder fine, and from the powers of special courts such as those of fairs or of the forest, there is a long list of courts with preliminary jurisdiction over felonies and trespasses : the county court,[3] the sheriff's tourn, the court held by the coroners, the court leet of the manor, of the hundred in private hands, of the borough ; also courts held by the constables of the vill and by the high constables of the hundred.[4] For final jurisdiction, there are various itinerant commissioners, justices of the upper courts or justices especially appointed by the Crown. Of these the justices of Gaol Delivery (not inevitably the same persons as the justices of Assize, in spite of legislation),[5]

[1] For a few examples out of many, see *C.P.R., 1334–8*, 62–3 ; *1338–40*, 67 ; Coram Rege Roll 335, Rex 11d. The MSS. referred to in this article are in the Public Record Office. For printed works the following abbreviations are used : *C.P.R.* for *Calendar Patent Rolls ; C.C.R.* for *Calendar Close Rolls ; R.P.* for *Rotuli Parliamentorum.*

[2] *Op. cit.*, I, 476.

[3] *Cf.* W. A. Morris, *The County Court*, 1926, 113–17, for its criminal jurisdiction, not abandoned as early as Professor Holdsworth thinks ; *History of English Law*, 3rd ed., I, 72.

[4] *E.g.* Coram Rege Rolls 343, Rex 25d ; 317, Rex 10. The subject of constables deserves a special study.

[5] 27 Edward I, c. 3 ; 4 Edward III, c. 2. Investigation of this difficult problem is rendered laborious by the omission from the Calendar of Patent Rolls of the normal commissions of Assize and of Gaol Delivery.

act only on indictments or appeals already brought, or on cases of arrest on suspicion. All the others, the justices of Eyre, the justices to take assizes and to hold pleas of the Crown, the justices of Trailbaston, the justices appointed to inquire of *all* felonies and trespasses within a given area, or of a long list of specified offences, or of an individual felony or trespass, can both hear preliminary indictments *and* determine them. Most important of all are the justices to hold pleas *coram Rege*—the justices of King's Bench—not yet settled at Westminster. They constitute a court of first instance and of final jurisdiction for indictments and appeals; they can act on indictments and appeals brought in the old local courts or before any of the itinerant justices; they can also deliver a gaol of all its prisoners. Finally, of especial significance as proof of the need of drastic remedies against the existing turbulence, there are various commissions of a new or comparatively new type (1) for enforcing certain statutes of Edward III and (2) for dealing with "suspects"; (3) there are also the normal commissions of the peace (frequently changed as to form), as well as (4) the less familiar commissions to the "supervisors" or "overseers" of the commissions of the peace.

In so complicated a situation, conflicts of jurisdiction were frequent.[1] In the minds of malefactors there must have been considerable uncertainty as to who would have the privilege of indicting or hanging them. The present study will show that in the early fourteenth century the keepers of the peace were regarded merely as one of many experiments for repressing violence, not certainly the most effective nor necessarily permanent. There were serious differences of opinion not only on the method of appointment of the keepers of the peace and on the extent of their authority, but also on the relative value of the keepers and other types of commissioners.

In spite of the danger of introducing distinctions too

[1] *Cf. e.g.* Coram Rege Roll 325, Rex 11; 336, Rex 17; 342, Rex 53; 343, Rex 24.

clear-cut to be sound for the age, it has seemed essential to try to define the term " keeper of the peace " according to usage current in the reign of Edward III. Inevitably, therefore, definitions for the preceding period must be discussed. But although it has long been known that the origin of the keepers is to be sought in the thirteenth and perhaps in the twelfth century, and that their development had made great strides during the reign of Edward II,[1] no intensive study has yet been made of the MS. sources.[2] My statements about the early period are tentative, therefore, and need to be checked by future research. Now since the common end of the repression of violence was the purpose of commissions that differed widely in their power, it is natural that such commissions should be described by identical terminology and that they should contain identical accounts of existing conditions. Thus " de pace conseruanda " or " de inquirendo de malefactoribus " does not indicate the precise character of the commission, nor does a preamble worded in terms of Trailbaston prove that the commission is to be called " Trailbaston." Further, since all criminal offences (except high treason) are covered by the phrase " felonias et transgressiones " and since " ad audiendum et terminandum " merely means authority both to begin and to complete the business on hand, it is unsafe to infer that commissions with power of hearing and determining felonies and trespasses are *ipso facto* to be classed under the technical head of commissions of oyer and terminer, the characteristics of which have certainly not as yet been adequately defined.[3]

The phrase " custos pacis " occurs under Henry III [4]

[1] Beard, *op. cit.*, ch. I.

[2] See my article soon to appear in the *English Historical Review* on " Records of the Keepers of the Peace and their Supervisors, 1307–1327." I am now editing for the Records Branch of the Kent Archæological Society the voluminous proceedings for Kent of 1316–17.

[3] H. M. Cam, *Studies in the Hundred Rolls*, 77. The traditional accounts are very unsatisfactory.

[4] Cam, *English Historical Review*, XL, 411; Beard, *op. cit.*, 20–1; E. F. Jacob, *Studies in the Period of Baronial Reform*, 77, note 1.

and also under Edward I in 1277,[1] and therefore before the statute of Winchester, which apparently its framers meant to be enforced by the constables of hundreds and by the justices of Assize,[2] *not* by "custodes pacis." But by 1287 knights were specifically assigned to administer the statute for keeping the peace [3] and within a few years were referred to as "custodes pacis." [4] At the same time the justices appointed in 1300 to enforce the great charter [5] included Winchester in their jurisdiction as did the justices of Trailbaston in 1307.[6]

Soon after the accession of Edward II, "de custodibus pacis" appears on the margin of a commission to enforce Winchester, followed by lists for all counties.[7] During the next few years, many commissions were enrolled under the same heading; by 1314 they included the power to arrest "suspects," [8] and by 1316, the power to inquire of felonies as well as of trespasses.[9] Although the form of the commission had now become stereotyped and the keepers of the peace were a recognised part of the normal administrative machinery, the terminology was not yet settled. "De pace conseruanda" and "de custodibus pacis" are applied to a variety of commissions for checking violence, some of which do not mention Winchester.[10] The subject is rendered still more complex by the occasional grant of supplementary powers to existing keepers.[11] By the reign of Edward III, however, it seems to be true that "de custodibus pacis" is never used unless Winchester is definitely included in the

[1] Cam, *ut supra*.

[2] 13 Edw. I, 1285. That the "justices" are those to take assizes is proved by the Letters Patent cited in note 3, *infra*.

[3] *Parl. Writs*, I, i. App. 388–9; 20 Jan.

[4] 1290–1; Cam, *ut supra*, 413–14.

[5] *Parl. Writs*, I, i. App. 398–400; 10 May.

[6] Rot. Pat., 35 Edw. I, m. 31d; 21 Feb.

[7] *Parl. Writs*, II, ii. App. 8–9; 24 Dec.

[8] *Ibid.*, 74–5; 5 June.

[9] *Ibid.*, 102–3; 14 June. "Facinoribus" in the commission of 1314 seems to be interpreted as synonymous with "feloniis."

[10] *E.g. ibid.*, 136, 10 Dec. 1318; 175, 20 Jan. 1322; 237, 2 Nov. 1323.

[11] *Ibid.*, 282; 28 Feb. 1326.

commission; and that, conversely (except in the case of "supervisors," to be explained later), the enforcement of the statute was never specifically entrusted to commissioners other than to the "keepers" or "justices" of the peace. It is not strange, therefore, that by 1347 it had come to be believed that the statute had actually mentioned keepers of the peace: "la ou Gardeyns de la Pees—sont assignez par Commission nostre dit Seignur le Roi, solonc l'Estatut de Wyncestre." [1]

The various problems connected with the development of the "keepers" into the "justices" in the period from 1327–1380 can best be dealt with by an investigation of the rapidly shifting forms of their enrolled commissions [2] and of other similar commissions, supplemented by additional evidence, mainly from the printed Parliament and Statute Rolls.[3] Because of the frequent inaccuracies of the printed Calendars, the MS. Chancery enrolments have had to be used. For clearness, it has seemed best to present a somewhat detailed analysis of the years from the accession of Edward III to the Plague and the new labour laws, and a much briefer account of the years from 1352–1380. The earlier period falls naturally into four divisions: I. 1327 to February 1332; II. March 1332 to 1337; III. 1338 to 1344; IV. 1344 to 1352.

## I. 1327 to February 1332.

In the parliament of February 1327, with Mortimer and Scrope, chief justice of the King's Bench, in control,[4] the

[1] *R.P.*, II, 166.

[2] Since my analysis shows about fifty different forms, it is necessary to omit many minor changes.

[3] It cannot be too strongly emphasised that this paper is only a preliminary attempt. Final conclusions will be possible only after a great deal more work has been done on the parliaments of Edw. III, and especially on the dating of petitions. It is a satisfaction to learn that Mr. G. Sayles and Mr. H. G. Richardson, after publishing their important articles on "The Early Records of the English Parliaments" (*Bull. Inst. Hist. Research*, Vols. V and VI), are continuing their investigations for the reign of Edw. III.

[4] *R.P.*, II, 3, *et seq.*; Cam, "The General Eyres of 1329–30," *English Historical Review*, XXXIX, 248, note 8.

prelates, earls, barons, and " communitas regni " in language later described by the stereotyped phrase " ex clamosa insinuacione populi regni " [1] ask for remedies against the prevailing disorder. The specific request of " la commune " is for the appointment in each county of " bones Gentz et leaux . . . a la Garde de la pees," with authority to punish,[2] an authority that had not previously been included in the commissions of the peace. The resulting Act,[3] formerly supposed to be the origin of the keepers,[4] merely gives statutory sanction for a system long in use, and does not contain the desired extension of powers. The statement that the appointment shall be by " Election du Conseil le Roi " [5] implies, I think, that the commons had requested, in vain, the right to control the lists. The issue was immediately joined, therefore, between the commons and the central government on two crucial matters—the extent of the authority of the keepers and the method of their appointment.

On 8 March commissioners were assigned for all counties,[6] and within a few weeks were described as " custodes pacis." [7] The important clauses of their commission are as follows:

1. Preamble on the existing disorders.
2. Enforcement of peace and of the statute of Winchester.
3. Inquiry by sworn inquest of felonies and trespasses.
4. Arrest of the indicted and imprisonment until lawful delivery.

[1] Rot. Pat., 1 Edw. III, pt., 1, m. 10d; *C.P.R., 1327–30*, 88–90.

[2] *R.P.*, II, 11. In view of the ambiguity of the word " commons " in the fourteenth century, I cite the original terminology throughout this paper. *Cf.* T. F. Tout, *Place of Edw. II*, 89; C. H. McIlwain, *High Court of Parliament*, 104; A. F. Pollard, *Evolution of Parliament*, 114 *et seq.*, 241 *et seq.*; also articles quoted *supra*, p. 24, note 3, especially *Bull. Inst. Hist. Research*, vol. V, pp. 76–7.

[3] 1 Edw. III, st. 2, c. 16.

[4] Thus described even in so admirable a book as *History of England*, 1926, by Professor Treveylan; see p. 199.

[5] *R.P.*, II, 12.

[6] *C.P.R., 1327–30*, 88–90. For the sake of brevity my references are usually to the printed Calendar.

[7] See reference in note 3, p. 26, *infra*.

5. Execution of the premises on certain days and at certain places.

6. Imposition of penalties on those who refuse to aid the keepers.

7. Command to sheriff to summon jurors, and to imprison offenders already arrested and those whose names are given him.

The MS. text shows that the preamble is almost the same as in the commission of 1316 and the supplementary instructions of 1326, and that all three are using Trailbaston language; that 2, 3, 4, 5, and 7 correspond very closely to clauses of 1316; and 6 to a clause of 1326.[1] Almost the only innovation in the new reign is the omission of the power to arrest "suspects."

The keepers, for the most part local gentry,[2] had scarcely begun their work, when complaints were made of their failure.[3] The system now adopted by the central government was one already tried under Edward II,[4] the appointment of "supervisors" of the "keepers" to act within a group of counties, either a single chief and superior keeper like Roger Mortimer,[5] or several great lords.[6] In the statute of Northampton of 1328,[7] the "focus" of Mortimer's measures for peace,[8] distrust of the keepers still prevails. They are merely made responsible with other local officials for the enforcement of the new provision against arms,[9] while the justices of Assize are to punish offences against the statute of Winchester, instead of merely to report to

[1] *Parl. Writs*, I, i. App. 407, 408–9; Rot. Pat., 35 Edw. I, m. 31d; Cam, *Hundred Rolls*, 75–9; *supra*, p. 23, notes 9 and 11.

[2] According to my rather superficial examination of the *personnel* of the lists.

[3] 24 March; *C.P.R.*, *1327–30*, 90; see MS. text for the complaints.

[4] See my article, *supra*, p. 22, note 2.

[5] *C.P.R.*, *ut supra*, 8 June, 152.

[6] *Ibid.*, 24 March, 90; 1 July (not 11), 154 (erroneously summarised).

[7] 2 Edw. III, cc. 1–7.

[8] Cam, *English Historical Review*, XXXIX, 243.

[9] c. 3.

parliament.[1] Finally, justices of Trailbaston, as they are soon called by contemporaries,[2] are given wide powers of inquiry into the misdeeds of officials and of hearing and determining felonies and trespasses.[3] According to Miss Cam's illuminating account, their commissions are to be linked up with Scrope's plans for a general Eyre as the most effective method of restoring order.[4] But what about the justices of Assize and Winchester ? It seems probable that there was a controversy and that the commissions of the peace of 18 May 1329 [5] represent a triumph for the advocates of the keepers ; the new form, which has hitherto been overlooked, is precisely like that of 1327 with the significant addition of the authority of determining felonies and trespasses.[6] The early use of "justices de la pees" [7] is therefore explained.

If the increase of power was a concession to the commons, it must have been of little value in the counties about to endure a general Eyre,[8] and in any case was of short duration. In November 1330, just after Mortimer's execution, and after eighteen months of vacillation,[9] the policy of 1329 was reversed by a statute.[10] The justices of Assize are to deliver

[1] c. 6 ; p. 23, note 2, *supra*. Mr. G. O. Sayles calls my attention to the fact that the reports to parliament were *not* made ; see articles quoted *supra*, p. 24, note 3, *Bull. Inst. Hist. Research*, V, 134–5.

[2] See *infra*, p. 40.

[3] c. 7.

[4] *Ut supra*, p. 26, note 8, 244–5.

[5] *C.P.R.*, *1327–30*, 429–31.

[6] The Calendar omits the addition.

[7] Parl. Proceedings, Chancery, 33/10, ascribed tentatively by the MS. catalogue to the reign of Edw. I, is a petition from William le Butiller de Wemme and his companions, "Justices de la Pees." From the evidence of the names mentioned, it belongs clearly to 1331 or 1332.

[8] Cam, *ut supra*, 241, 245–8.

[9] New form : 1329, 23 May, 25 Dec. ; 1330, 20 Feb., 30 March, 12 April, 16 Sept., 18 Oct., 22 Oct., 12 Dec. ; *C.P.R.*, *1327–30*, 431, 481, 558 ; *ibid.*, *1330–4*, 56–7. Old form : 1330, 20 May, 10 June, 12 July, 22 July, 8 Sept. ; *ibid.*, *1327–30*, 562, 564. The commissions of 4 Dec. 1330 (erroneously summarised in *C.P.R.*, *1330–4*, 58) and of 12 and 21 Jan., *ibid.*, 63, are an interesting anticipation of the policy of the statute of 1344.

[10] 4 Edw. III, c. 2.

gaols at least three times a year and the keepers of the peace are to send them their indictments; sheriffs are forbidden to admit to bail prisoners held by the keepers. The commissions of the peace of 16 February 1331 embody these changes and necessarily omit the authority to determine.[1] With the appointment on 15 and 18 February and throughout the spring [2] of commissions to magnates with the searching powers authorised by the statute of Northampton, the rôle of the keepers became comparatively insignificant. That the omission from the commissions of the peace of the power to arrest "suspects" had aroused discussion is perhaps shown by the enactment of the statute against "Roberdesmen" [3] in September 1331.[4] But although it empowered local officials (not keepers) to arrest "suspects" by day as well as by night (an extension of Winchester), it was never included in the normal shire commission of the peace [5] and for several years was scarcely enforced at all.

Further evidence of persistent conflict of opinions is afforded by the withdrawal on 22 November of the commissions to magnates [6] and by the appointment on 12 February 1332, of keepers of the peace under a commission the form of which like that of 1329 has been ignored. The statute of Northampton, "that second chapter in the peace code," is at last included, and once again the authority to determine felonies and trespasses.[7] But the keepers had not yet been transformed permanently into justices, nor were they even assured of continued existence, as the next few years will show.

[1] *C.P.R., 1330–4*, 136–7.
[2] *Ibid.*, 133–4, 138–9.
[3] 5 Edw. III, c. 14.
[4] The magnates also promised not to "maintain men of 'bad fame'"; *R.P.* II, 62; *cf.* also *C.C.R., 1330–3*, 422.
[5] My statement on p. 193 of my *Early Treatises* is wrong.
[6] *C.C.R., 1330–3*, 425.
[7] *C.P.R., 1330–4*, 285–8; "determining" is not indicated in the *Calendar*.

II. March 1332 to 1337.

On 16 March 1332, after the chancellor's reference to the king's plan for going to the Holy Land, Scrope made an eloquent speech on the disorders caused by gangs of marauders and asked for advice. The prelates withdrew on the plea that keeping the peace was not their business, although later they consented to the use of excommunication; the earls, barons, and other "Grantz" conferred, and in evident agreement on the inadequacy of the keepers of the peace, presented a new plan which was read before the king, the prelates and "les Chivalers des Countez, et les Gentz du Commun," and was accepted by all. "Des plus grantz" are to be appointed keepers of counties, with no reference to Winchester or Northampton; they are to be aided by the keepers of the peace and the sheriffs, and by local officials in carrying out array and in pursuit of "suspects," and are to hear and determine felonies and trespasses. The "Chivalers des Countes, Citeins, et Burgeys," and "la Clergie" are allowed to depart on Saturday, 21 March; but not till the following Monday were the form of the commissions and the lists of names read "en dit Parlement" before the king and magnates.[1] Some confusion in administrative machinery is shown by the issue of *three* sets of commissions, almost identical in *personnel*; two on 21 March, perhaps before the departure of the commons, one tested by the king, the other by the council; the third on 23 March, likewise tested by the council.[2] These commissions, while differing slightly from each other, all have in their preambles much of Scrope's opening speech as well as the familiar Trailbaston phrases; except for the omission of array and "suspects," and the substitution for the latter of emergency powers to arrest the gangs of marauders without indictment, they follow very closely the new "statute," as it is often called by modern historians, or "agreement,"

[1] *R.P.* II, 64–5. The phrase "en pleyn Parlement" is used for this same session.

[2] *C.P.R., 1330–4*, 292–5, 348–9, 296–7.

to use the contemporary term.[1] Scrope must have had considerable responsibility for a scheme which instead of utilising the keepers of the peace with increased authority as Miss Cam thought,[2] actually relegated them to a subordinate position.

Opposition to the scheme on the part of the magnates and also of the knights of the shires evidently developed in the September parliament.[3] By 28 October the keepers of counties were withdrawn on the ground that the disorders had been overcome and that keepers of the peace had been sanctioned in parliament for the enforcement of the statute of Winchester.[4] The evidence of the next few years indicates a continuation of the controversy. Although the "commonalty of the realm" seems to have been able, at least once, to show that the magnates were actually obstructing the work of the keepers of the peace,[5] the opponents of the keepers were victorious. Only a few commissions of the peace were issued, some of them in an obsolete form ;[6] instead, a variety of expedients were tried including the greater excommunication.[7] On 15 February 1333, after the end of the first York parliament,[8] the keepers of *counties* were again appointed, in regions where the keepers of the peace had failed.[9] In the second York parliament a year

[1] Cam, *ut supra*, p. 26, note 8, 248, following Beard, *op. cit.*, 38. The printed Calendar uses "statute" in two of the summaries, "resolution" in the third. In the MS. the phrase each time is: "Prout . . . est concordatum."

[2] Miss Cam (*loc. cit.*) makes the mistake of identifying keepers of the *counties* with keepers of the *peace* and, ignoring the commissions of the peace of 1329 and of Feb. 1332, states that this "statute" of 1332 first transformed the keepers into justices.

[3] *R.P.* II, 66, 67.

[4] *C.C.R., 1330–3*, 610, 616.

[5] *Cf. C.P.R., 1330–4*, 573.

[6] 12 Dec. 1332, form of 1327, omitting Northampton therefore, *ibid.*, 390 (11 Dec. by an error) ; 12 July, 2 Nov. 1333, 496 (Westminster printed for Winchester) ; 8 Aug. 1334, form of 1327, except that it includes Northampton (latter omitted in the Calendar), *ibid.*, 583.

[7] *Ibid.*, 573–4.

[8] 2 Dec. 1332, prorogued to 20 Jan. 1333 ; *Lords' Report on the Dignity of a Peer*, IV, 416, 418–19.

[9] *C.P.R., 1330–4*, 445.

later, provision was made to enforce the arms clause of Northampton through the sheriffs.[1] In the third York parliament of 26 May 1335, it was agreed that after the king's departure to Scotland, infringers of the arms clause should be treated as rebels.[2] Commissions to enforce peace, the statute of Northampton and the York agreement were issued for all counties on 26 July 1335,[3] and for a number of counties in 1336.[4] It is significant that (1) the statute of Winchester is omitted, the array clause being entrusted to special commissions ;[5] (2) the commissioners of the York type are usually *not* called keepers of the peace ;[6] (3) during the period few new keepers are appointed, although some of the old ones are still acting.[7] Finally, in March 1336, as a result of urgent petitions by all groups in parliament for remedies against disorders, an " agreement " or " ordinance " is made, not to be holden for a statute and to last only till the next parliament when its effects could be judged.[8] A number of commissions were issued authorising the arrest within certain areas of those " notoriously suspected " of felonies and misdeeds and their transfer to the Tower, not to be released without the king's commands.[9]

[1] 21 Feb. 1334 ; *Lords' Report*, IV, 422–5 ; *C.P.R., 1330–4*, 584. Important petitions on justices of the peace, badly summarised in *R.P.* II, App. 376–7, are fully recorded on the MS. Chancery Parliament Roll, No. 4, of this parliament. (I am indebted to Mr. Sayles for a transcript.) They include the earliest request that I have noted for the appointment of " vn homme de ley " on the commission ; see *infra*, pp. 39–42.

[2] *Lords' Report*, IV, 443–6. Not included in *R.P.* II, 90–5, but referred to in the commissions.

[3] *C.P.R., 1334–8*, 208–10.

[4] Between 8 Feb. and 6 Sept., *ibid.*, 284, 287 (12 April for 11), 290, 294, 357, 361. The printed summaries are inaccurate.

[5] *Ibid.*, 26 Jan. 1335, 137–9. *Cf.* also *C.C.R., 1333–7*, 362, 647–8.

[6] For exceptions, see *C.P.R., 1334–8*, 209, 353.

[7] *E.g. ibid.*, 288.

[8] *Statutes of the Realm*, I, 276–8.

[9] *E.g. C.P.R., 1334–8*, 290 (felonies omitted in the Calendar), 293, 294. For similar procedure in 1195, see Professor Powicke's article in *Magna Carta Commemoration Essays*, 110–19. Professor Powicke considers that the peculiarity of the measure of 1195 lay in the detention at the king's pleasure, not in the method of arrest.

The next parliament of 23 September at Nottingham,[1] extended the duration of the "agreement" and widened its scope.[2] Commissions of 16 October for *all* counties included full powers of hearing and determining felonies and trespasses whether committed by such "suspects" or by others.[3] In view of the controversy over the meaning of "ordinance" and "statute" in the early fourteenth century,[4] it is interesting to find that in contemporary usage, "statute" is always the term for the enactment of 5 Edward III on suspects, and never for this new provision even when renewed.

The power of "summary arrest" by any individual, by local officials, and by raising the Hue and Cry,[5] in cases where a felony has been committed, goes back to early times, antedating archbishop Walter's proclamation of 1195.[6] Judicial records, especially Gaol Delivery Rolls, are full of instances of such arrests; but that the power was not always adequately exercised is proved by the statute of Winchester and the statute of 5 Edward III just mentioned, by the clause in the commissions of the peace under Edward II, and by sporadic commissions under Edward III.[7] Certainly, in the fourteenth century, indictment or appeal so frequently preceded arrest that the accused had sufficient warning easily to make good their escape. Previous to the development of the modern procedure of arrest by warrant *before* indictment, it is easy to sympathise with the drastic attempt to legalise the capture of gangs of dangerous marauders, many of whom had already been indicted. The difficulty of securing the presence of the accused is linked up

[1] *Lords' Report*, IV, 460–3. Mr. Sayles and Mr. Richardson are convinced from the evidence that it was a great council, not a parliament.

[2] Inferred from the language of the commissions.

[3] *C.P.R., 1334–8*, 367–71.

[4] *Cf.* T. F. T. Plucknett, *Statutes and their Interpretation*, 32–4; C. H. McIlwain, *Magna Carta Commemoration Essays*, 145–6.

[5] "Duty" as well as "power" in the last two instances.

[6] Stephen, *Hist. Crim. Law*, I, 189; Powicke, *ut supra*, 112. *Cf.* Holdsworth, *op. cit.*, 3rd ed., III, 599–601.

[7] *E.g. C.P.R., 1327–30*, 355; *ibid., 1330–4*, 291–2; *ibid., 1334–8*, 210–11.

with another problem of medieval law, the question of the influence on a prisoner's fate of his "good fame" or "bad fame";[1] both matters need thorough investigation. Even without full knowledge, however, it is easy to see, that this procedure by "administrative action,"[2] although sanctioned in parliament, involved real peril to the "due process of law" guaranteed by article 39 of the Great Charter. Details of the discussion are unfortunately wanting; all that we know is that by 2 June 1337, on the avowed plea that the commissioners were wanted across the seas, the long lists of 1336 were withdrawn.[3] We have already seen that commissions of the peace had been practically abandoned. On the eve of the conflict with France, the way was open for further experimenting.

III. 1338 to July 1344.

Among the problems of the beginning of the war and of the constitutional crisis of 1340–1341,[4] two require emphasis here: (1) the king's constant and pressing need for funds, and (2) the universal belief that in his absence crimes of violence would increase. The parliament of 3 February 1338[5] was concerned with the endeavour to secure the wool already promised and to repress disorders within the realm. The matter of "suspects" was evidently again discussed, with the result that at last the statute against "Roberdesmen" was utilised. A commission of the peace for Norwich, dated 12 February, bracketed the statute of Westminster (*i.e.* against "Roberdesmen") with Winchester and Northampton, henceforth the normal form for boroughs.[6]

[1] See my *Early Treatises*, 205–6.

[2] Professor Powicke's phrase.

[3] *C.C.R., 1337–9*, 134.

[4] S. B. Terry, *The Financing of the Hundred Years' War, 1337–60*, 1914; D. Hughes, *Early Years of Edward III*; G. Lapsley, *English Historical Review*, XXX, 6–18, 193–215; Professor Tout, *Chapters in Administrative History*, III, ch. IX, s. iii.

[5] *Lords' Report*, IV, 488–91.

[6] *C.P.R., 1338–40*, 67. Lambard noted a similar commission for Scarborough of 20 Edw. III, and was thereby misled into thinking that the statute against "Roberdesmen" was included in the normal shire commission of the peace; *Eirenarcha*, 1602, 38–9, 174.

There were also a few commissions under the " agreement " of 1336, often in the form of a commission to arrest offenders specified by name.[1] But for ascertaining local public opinion on the whole problem of internal peace, a new method was devised. On 22 February, before the end of parliament,[2] writs were issued summoning from two to four representatives, usually knights, from Nottinghamshire and the three ridings of York, to York on 3 April ; from the other counties to Westminster on 20 April. " On the occasion of our coming departure," so run the writs, " we wish to discuss with you and certain others concerning our peace and certain other matters touching us." [3] The following hypothesis is suggested by these last words and by the fact of the breaking of the Privy Seal on 25 April : [4] (1) The famous ordinances of Walton, although dated 12 July, had been decided upon several months earlier ; [5] (2) two new forms of commissions for keeping the peace were drawn up in these April conferences, although not enrolled till 6 and 7 July respectively.[6] Those of 6 July include the old preamble, with a reference to the king's departure ; also the familiar clauses on peace, Winchester and Northampton ; add clauses on array and deputies ; and, for the third time in the reign, transform the " keepers " into " justices " by giving them authority to hear and determine felonies [7] and trespasses, committed " exnunc." Since the lists prove to be mainly of local gentry, the party in favour of the keepers of the peace would seem to have triumphed completely, were it not for a final clause in which the " keepers " are

[1] *E.g. C.P.R., 1338–40*, 77 (" statute " erroneously printed for " ordinance and agreement ").

[2] See " in instanti Parliamento nostro," in a document of 24 Feb. ; *Fœdera*, II, pt. ii, 1015.

[3] Printed in full from the Close Rolls by Rymer, *Fœdera*, II, pt. ii, 1013–14. *Cf. Calendar Plea and Memoranda Rolls of the City of London*, 100, 128, 189 ; *Cal. Letter-Book F*, 19–23 ; *C.C.R., 1337–9*, 413, for the part played by London.

[4] *C.C.R., 1337–9*, 408.

[5] *Cf.* Hughes, *ut supra*, 49 ; Tout, *ut supra*, 79.

[6] *C.P.R., 1338–40*, 135–9, 134.

[7] " Felonies " omitted in the *Calendar*.

bidden to assist the "overseers." The commissions of 7 July are to "les grantz" who, acting within groups of counties, are to see that the keepers execute their business "competently, diligently and speedily." As between the local gentry and the magnates, the situation was a draw; but in the method of the appointment of the keepers, there is evidence that an experiment was tried, so interesting as to merit a detailed description.

Of the ordinances of Walton,[1] the articles that concern this experiment are those providing for the election of sheriffs "par les bones gentz des contez"; for the election of "touz les autres grantz ministres des countes;[2] also of customers, controllers and taxers. On sheriffs there is abundant information. Writs of 20 August[3] are followed by returns of election in Somerset and Dorset (10 September); Surrey and Sussex (30 September); Cambridge and Huntington (16 October).[4] A year later there are similar writs[5] and returns for the same six counties and also for Essex and Hertfordshire.[6] That the system was not universally popular is seen by the exemption from the necessity of election granted by royal favour to the shires of Northampton, Rutland, Stafford, Warwick and Leicester,[7] and by an interesting statement that a number of the suitors of the Cambridge county court, had refused to consent to an

[1] After stumbling on the ordinances through Stubbs' footnote reference to the Close Roll copy printed in *Fœdera* (*Const. Hist.*, 4th ed., II, 399) and after reading Miss Hughes' chapter on them, I discovered that Professor Tout and Miss Broome were analysing them thoroughly and were printing the text from Chancery Warrants, I, File 248, No. 11238; *ut supra*, 143–50. *Cf. Fœdera*, II, pt. ii, 1049–50. See also *The Chancery under Edward III*, 1929, by B. Wilkinson, index under Ordinance of Walton.

[2] "Countz" in Close Roll copy.

[3] *C.C.R., 1337–9*, 463.

[4] *Calendar Fine Rolls, 1337–47*, 92, 94, 96.

[5] *C.C.R., 1339–41*, 193.

[6] *C.F.R., ut supra*, 146, 154, 144. For supplementary material, *cf.* Chancery Files, Tower Series, C 36, ms. 25, 29, 30, 31; Chancery Miscellanea, 98, File 3, No. 5 from end.

[7] Chancery Warrants, I, 249/11355; Chancery Miscellanea, 128, File 1, No. 15 from end; Chancery Warrants, I, 249/11354.

election.[1] Of controllers and collectors of customs, many instances of election in the important seaports are recorded between 7 September 1338 and 2 May 1343 ; [2] of the election of taxers I have discovered no trace. Finally, the possibility that the keepers of the peace might be included among " les autres grantz ministres des countes " as officials to be elected was suggested by the accidental discovery among Chancery Miscellanea [3] of what seem to be election returns, unfortunately in baffling form and undated.

The manuscript includes lists for twenty-one counties under a variety of headings : (1) Lists of names merely : Berks, Bucks, Kent (with a note as to the substitution of a name " in custodia pacis " of Essex), Middlesex, Northants, Oxfordshire, Suffolk ; (2) " Ces sunt les nouns qe sunt elluez des mieuth vauetz en le dit Counte [4] pur faire la garde de la pees " : Cambridgeshire, Herts, Hunts, Norfolk (des plus suffisauns) ; (3) " Nomina hominum electorum pro custodia pacis " : Essex, Surrey, Sussex ; (4) " Nomina custodibus (*sic*) pacis " : Gloucestershire ; (5) " Custodes pacis : " Leicestershire, Lincolnshire (three divisions), Rutland ; (6) A peculiar form to be noted later : Somerset. Perhaps to be classed with these lists are three undated petitions for the appointment of certain men as keepers of the peace, from " la commune " of Dorset and of Shropshire, and from " les gentz du countee " of Hereford.[5]

Obviously the first step in any attempt at interpretation

[1] Chancery Miscellanea, 92, File 2, No. 15 from end.

[2] Controllers : *C.P.R., 1338–40*, 161, 202, 216. Collectors : *C.C.R., 1337–9*, 501 ; *1339–41*, 34 ; *1343–6*, 50–1.

[3] 33/9, ms. 1–18 ; described in the MS. List as " Temp. Edward III. Keepers of the Peace. Return of Elections," with a note that they were formerly known as Chancery, Parliamentary Petitions, 9195, *etc.* ; and since then successively as Chancery, Miscellaneous Rolls, 18/26 and 21/2. Although in the old printed list (*Report Deputy Keeper*, XXXIV, app., no. 1) they are often correctly described (*e.g.* p. 21, no. 9230), they are not specifically mentioned with other election returns on p. 61 of Mr. Giuseppi's *Guide to the Public Record Office*, and do not seem to have attracted the attention of modern scholars.

[4] " demorauns en le dit counte " ; Herts.

[5] Ancient Petitions, 107/5327, 142/7077, 115/5741.

of these lists was to date them. A comparison with Chancery enrolments shows very little correlation with any lists of keepers of the peace other than those of 6 July 1338. Here the correlation, although by no means complete, is often fairly close; *e.g.*, Cambridgeshire includes three out of the six names on the MS. list, and adds two more of the six within a few weeks.[1] My guess is that the MS. lists represent nominees from whom the king's council chose members of the commissions of the peace of 6 July. But how were the nominees chosen? The MS. contains no reference to county courts; no writs for election have turned up; parliament had not met since February; "eslire," as is well-known, may mean "select," not necessarily "elect." A possible clue is afforded by the proceedings of the previous April already described.[2] (1) Of the seven counties lacking in the MS. document, Cumberland, Northumberland, and Westmoreland are also ignored in April; representatives from Nottingham, and the three Yorkshire ridings summoned only to York. (2) The four Somerset representatives called by writ to Westminster, Philip de Columbariis, John de Bello Campo, John Lovel, Walter de Rodeneye, are the same as in the MS. list for Somerset under the heading: "Nomina eorum qui habent breue." They are followed by "Nomina per eosdem electa;" the bishop of Bath, John de Sancto Laudo, Edward Stradlyng, and Joyce de Bayouse. The keepers of 6 July for Somerset are identical with the first group, except that John Inge is added and that Philip de Columbariis is made an "overseer."[3] Of the second group, all except the bishop are acting as deputies to the keepers in the matter of array.[4] It seems probable that the representatives at the

[1] If I am right in thinking that "John" is an error for "Warin." The sixth name is that of the Bishop of Ely who probably would not be allowed to act on a commission dealing with felonies. The enrolled list adds two names not in the MS.

[2] *Supra*, p. 34.

[3] *C.P.R., 1338–40*, 137, 134.

[4] Assize Roll 770, m. 9d.

Westminster April conference not only secured the new form of the commission, but also a voice in nominating the keepers. Returning to their homes they were able between April and July to draw up lists of nominees, perhaps in consultation with their county courts, with no need for writs, perhaps by choosing names themselves, and apparently in Somerset by submitting their own names.[1] This interpretation explains the variety in the form of the MS. lists, the omission of the northern counties, and also the lack of complete correlation with any enrolment. Finally, without attacking the difficult problem of the ultimate motives behind the ordinances of Walton, it is safe to accept Professor Tout's theory that these election clauses were devised as a concession to the "lesser landed gentry and the commercial classes" as against the magnates.[2] Reaction began soon after the king's embarkation. At Northampton, either in the Council of 23 July 1338 or in the parliament of three days later, the 1336 "agreement" on suspects received new sanction.[3] By 1 August it was included in the commissions to "les Grantz" appointed with wider powers than those of their predecessors, as "overseers" of the keepers of the peace.[4] But so unpopular were these commissions that several of them were withdrawn early in 1339.[5] Differences of opinion appear in the parliament of the following October. To the bitter complaints of existing disorder, "la commune" replied that the peace had been well kept since the king's departure; if the keepers of the peace were not sufficient, let them be "afforced" by others more sufficient, by the advice of the knights of the shires here present.[6]

For the next six years, no full lists of keepers are enrolled,

[1] The Bucks. list of 17 names is perhaps explained by the special power given to John de Molyns; *C.P.R., 1338–40*, 132.

[2] *Op. cit.*, III, 75.

[3] *Lords' Report*, IV, 492–5; *R.P.*, II, 128; Hughes, *op. cit.*, 231; preamble to commissions cited *infra*, note 4.

[4] *C.P.R., 1338–40*, 141–2.

[5] Chancery Warrants I, 251/11513, 16 Feb. 1339; *cf. C.C.R., 1339–41*, 94.

[6] *R.P.*, II, 104.

but the many changes in the *personnel* of the commissions of July 1338, are perhaps due to the above suggestion. There are also new commissions for a few counties; sometimes of the 1338 type,[1] occasionally changed by the omission of array,[2] or of array and of the power of "determining;" [3] occasionally in the latter case, the commission of the peace is immediately followed by a commission to determine felonies and trespasses, issued to the same men, sometimes "afforced" by a member "learned in the law." [4] The form of 26 January 1344, is important for the future.[5] It begins abruptly with peace, Winchester and Northampton transferring the old preamble to the inquiry clause, the inquiry to be of the various malefactors as described in Trailbaston language. Array, deputies, the power of "determining" are omitted, but there is added, as in one of the forms under Edward II,[6] a request for a report to Chancery of the names of the indicted. With the commissions of 1338 still in force in about a third of the counties, the complications must have been serious. The struggle between the two schools of thought inevitably was brought to a head in the constitutional crisis of 1340–1341.

There are a number of significant points in the famous commissions of 10 December 1340, issued by the king at the beginning of the struggle.[7] (1) The power to impose collective penalties on whole districts was the result of the king's urgent need of funds. (2) The pecuniary gains were enormously increased by the retroactive extension of the inquiries to the beginning of the reign. (3) The summary arrest of high officials showed the danger to article 39 of the Great Charter. (4) Commissions with searching powers, like those of 1340, issued to magnates and great lawyers,

[1] *E.g.* 3 Feb. 1339, *C.P.R., 1338–40*, 279; 7, 8 and 10 Sept. 1340; *ibid., 1340–3*, 94.

[2] 1 Aug., 6 Oct., 15 Nov., 1340; *ibid.*, 88, 98, 102.

[3] 26 Jan. 1343, *C.P.R., 1343–5*, 67.

[4] 2 July, 13 July 1342, *ibid., 1340–3*, 540, 543, 546.

[5] *Ibid., 1343–5*, 274.

[6] *Supra*, p. 23, note 11.

[7] *C.P.R., 1340–3*, 106, 111–13.

although authorised by the statute of Northampton of 1328 and by the ordinance of Northampton of 1338, were exceedingly disliked, and were now popularly called Trailbaston, no longer a technical term,[1] but always a hated one. The broad trail left on coram Rege, Assize and Chancery Rolls [2] by proceedings under these commissions, and the large sum of penalties assigned to the king's creditors [3] made protests inevitable, even without the archbishop's sermon on articles 39 and 40 of the Great Charter.[4] "Les Grauntz" and "la Commune" unite in the parliament of 23 April 1341 in a petition for the repeal of the ordinance of Northampton; "la Commune" asks for the withdrawal of the recent searching commissions and for the appointment of men with knowledge of local conditions.[5] The repeal of the ordinance was granted, as if at the request of the commons alone;[6] and was implied in a clause of the famous statute of 15 Edward III which included a reference to the Great Charter,[7] but no other real change was effected. In answer to the usual request in parliament two years later for advice on the keeping of the peace, "les gentz de . . . Commune" suggest that justices be elected and sworn in parliament and that the "points" of their commissions be declared.[8]

[1] Instead of the old list of articles (Cam. *Hundred Rolls*, 73–9), wide powers of hearing and of determining seem now to call forth the term. It was applied to the following commissions—no one of which included the classical Trailbaston form: (1) For hearing and determining various trespasses and felonies; *C.P.R., 1334–8*, 136, Chancery Warrants, I, 241/10550. (2) For the arrest of "suspects"; 16 Oct. 1336, *supra*, p. 32, note 3; *R.P.*, II, 97; also 1 Aug. 1338, Chancery Warrants, cited p. 38, note 5, *supra*. (3) For hearing and determining a long list of offenses; 10 Dec. 1340, Lapsley, *op. cit.*, 11–12, citing the *French Chron. of London*, 89.

[2] Miss Hughes has presented "Some evidence relating to the inquiries" in ch. X, but the MS. material is so abundant that a far more thorough investigation needs to be made.

[3] *C.C.R., passim.*

[4] Lapsley, *op. cit.*, 14–15.

[5] *R.P.*, II, 128–30. Mr. Lapsley in his admirable study errs, I think, in believing that the commons had confused the "ordinance" with the "statute" of Northampton.

[6] *R.P.*, II, 130–1.

[7] *Ibid.*, 131; 15 Edw. III, st. 1, c. 3. For the repeal of this statute, see *Statutes of the Realm*, I, 297, and Lapsley, *op. cit.*, 200–1.

[8] *R.P.*, II, 136.

The new commissions, however, prove to be indistinguishable from the old ones.[1] Once again, therefore, this time in the parliament of 16 June 1344, the commons, "sa commune," ask the king that the "new inquiries" shall cease and that in each county two "de mieltz vauetz" and two, three or four others "des Sages" shall be assigned to keep the peace and to hear and determine felonies and trespasses.[2] The resulting statute grants the withdrawal of the "new inquiries" and the appointment of keepers of the peace in every county, and authorises a system already tried under Edward II and more recently in 1330 and 1342 : [3] wherever there is need the keepers are to be afforced by "autres sages et apris de la ley" and only then are they to act as justices.[4] On 20 July full lists of keepers were enrolled under a commission almost identical with that of the preceding January, and with a warrant for enrolment, "per peticionem de parliamento," that possibly implies that the names had been read.[5] In the matter of the "new inquiries" the commons had won ; [6] in the matter of the transformation of the keepers of the peace into justices, they had failed to recover their gains of 1338.

IV. July 1344 to December 1352.

Until 1350 there are no full lists ; instead there is an enrolment nearly every month of a commission of the peace for some one county,[7] virtually unchanged in form, except for vacillation in the matter of array, after 1346 regularly included.[8] The point of interest is the frequency with

[1] *Cf. e.g. C.P.R., 1343–5*, 287, or Coram Rege Rolls, *passim*.

[2] *R.P.*, II, 148. Professor Hearnshaw's error (*Leet Jurisdiction*, 1908, 120) in interpreting the request to mean that no new articles should be added to the list to be inquired into at tourn or leet, has unfortunately found its way into Professor Holdsworth's *Hist. Eng. Law*, I, 3rd ed., 80.

[3] *Parl. Writs*, II, ii app. 83 ; *C.P.R. 1330–4*, 58 (wrongly summarized), 63 ; *supra*, p. 39 and note 4.

[4] *R.P.*, II, 149 ; 18 Edw. III, st. 2, cc. 1 and 2.

[5] *C.P.R., 1343–5*, 393–7.

[6] *C.C.R., 1343–6*, 449–50, 452, 463.

[7] *C.P.R. passim*.

[8] *E.g.* included 22 July, omitted 20 Aug. 1345 ; *C.P.R., 1343–5*, 576, 580.

which " men of law " were added to the existing commissions of the peace in accordance with the statute of 1344, and were empowered to deliver the gaols of prisoners indicted for felonies and trespasses before the keepers. Excluding the case of Holderness [1] as too special, there are during these six years twenty-eight instances, covering fifteen counties,[2] in one case the keepers themselves receiving the supplementary powers.[3] But the system is of greater importance than is indicated by these comparatively few instances. The necessity for the presence of " men of law " in the determining of felonies and trespasses undoubtedly marks the beginning of the quorum, a subject that needs careful investigation. The request to the keepers to have their indictments ready on a certain day is probably the first step in the development of the office of the Custos Rotulorum.[4]

But what was the attitude of the commons during the years just before the Plague ? In each of the three parliaments that met, the usual topic, the peace of the land, was under debate. In September 1346, " la Commune " asks that keepers of the peace shall be assigned in all counties and that they shall hear and determine felonies and trespasses and deal with purveyance. The increase of powers is refused, the assignment promised [5] but not carried out. In January 1348, " la Commune " declares that the best method of keeping the peace is the *election* by " Gentz des Counteez " of six men in each county, two magnates, two knights, and two men of law, with authority to hear and determine : " residents are best fitted to deal with local needs." The request for such commissions was repeated in March, and was refused both times. Petitions that there should be no Trailbaston, nor Eyres, nor " inquiries " but

[1] *C.P.R., 1345–8*, 116, 238.

[2] Between 16 April 1345 and 8 Dec. 1349 ; *ibid., 1343–5*, 507 ; *ibid., 1348–50*, 457. I am not counting the Cornwall commission of 20 July 1344 ; *ibid., 1343–5*, 394.

[3] 21 June 1347, *C.P.R., 1345–8*, 318.

[4] *E.g. ibid.*, 27 Jan. 1347, 301 ; see MS. text.

[5] *R.P.*, II, 157, 161.

only " Justice de la Pees " show that the old controversy still continued.[1] Meanwhile in Lancashire the " communitas " had " elected " the keepers of the peace in 1345,[2] and had apparently submitted lists of nominees to the central government in 1350.[3]

The story of the variety of attempts to enforce the ordinance of Labourers of 1349 during the chaotic months of the Plague does not need to be re-told here. The significant commission for the development of the keepers of the peace is that of 20 February 1350,[4] enrolled for eight districts only, but probably issued for all counties. To the clauses on peace, Winchester, Northampton, array, inquiry of the long list of malefactors, are added not only the power to inquire of the new ordinance and of negligent officials, but also of determining trespasses, homicides, and felonies, the quorum being necessary for the two last. The only change in the commissions of 15 March 1351,[5] enrolled for all counties, is the addition of the new statute of Labourers. Although the joint commissions of the peace and for labourers were soon to be temporarily abandoned, the keepers of the peace, except for one short period, retained their powers of " determining." By 1350, therefore, in the matter of the extent of the authority of the keepers, the commons had succeeded in substituting the policy of 1338 for that of 1344.

The full significance of these changes and conflicting tendencies from 1327 to 1352 can best be appreciated by a very brief account, necessarily a tentative one, of the further development of the office of justice of the peace up to the re-organization of 1380.

The 1338 method of nomination was apparently not repeated, but the wish of the commons that the names of the

[1] *Ibid.*, 164, 174, 200, 202.
[2] Chancery Miscellanea, 65, file 1, m. 31.
[3] See my *Statutes of Labourers*, 29.
[4] *C.P.R., 1348–50*, 526–7 (inaccurately summarized); *Statutes of Labourers*, 10–13.
[5] Printed *ibid.*, app. 21–4.

justices of the peace should be submitted to parliament was achieved in 1362 [1] and 1363,[2] as it previously had been in the case of justices of labourers,[3] and was refused in 1365, 1376, 1379, and 1390.[4] Since the irregularity in the dates of appointment was gradually abandoned and since full lists were often issued just after a session of parliament as in 1351, 1361, 1364, and 1380, the commons must however have had frequent opportunity for exerting pressure on king and council. Further research ought to show the existence of many more petitions from local communities than I have noted,[5] a procedure not so very different from the advisory committees of to-day.[6] But the real control lay with the central government.

On 17 December 1352 there began, tentatively, the seven years' experiment of separate commissions for labourers.[7] The commissions of the peace, therefore, necessarily omitted the labour laws, and were slightly changed in 1352 and 1353, by the substitution in the inquiry clause of " felonies and trespasses " for the long list of malefactors that had sur-

[1] *Cf.* " per regem et totum parliamentum " at the end of the commission of 20 Nov. 1362 ; *C.P.R., 1361–4*, 291.

[2] *R.P.*, II, 277.

[3] *Statutes of Labourers*, 26–33.

[4] *R.P.*, II, 286, 333 ; III, 65–6, 83–4. In the last instance, the names had actually been presented to the king " en escrit."

[5] As this paper was going to the press, Mr. Sayles kindly gave me his transcript of the following interesting document from Ancient Correspondence, 39/9 (printed with serious errors in Mr. Wilkinson's recent book on the Chancery, p. 28) :

Reuerende pater et domine. Dicitur quod dominus Nicholaus Dauney miles inter ceteros assignatus est in comitatu Deuon' pro custodia pacis, qui nec pacis auctor nec amator creditur nec erat nominatus per patriam, quare expedit vt credo quod alius ipsius nomine subrogetur.

per vestrum I. Exon'

(Dorse) Reuerendo in Christo patri domino I. dei gracia Wynces' episcopo. Since Dauney's earliest appointment on the commission of the peace was on 12 Feb. 1332 (*C.P.R., 1330–34*, 286) and since he was dead by 15 Sept. of that year (*Cal. Inq. post-mortem*, VII, 350), the petition almost certainly falls between these two dates. I am indebted to Mr. Sayles for these details.

[6] See the " Report of the Royal Commission on the Selection of Justices of the Peace," 1911.

[7] *Statutes of Labourers*, 15–17 ; app. 35–42.

vived from Trailbaston phraseology and also by some minor alterations.[1] Otherwise, with a few exceptions like the completely a-typical form of 1357,[2] the commission of 1350, thus modified, was still in force in 1359.

In the autumn of that year three closely interrelated steps were taken by the central government. On 3 October and again on 16 November commissions of array were issued "juxta formam statuti Wynton', in absentia Regis"; [3] on 4 November the commissions for labourers were recalled; [4] on 4 December commissions of the peace were issued,[5] the first full lists since 1351. The form is almost precisely like that of 1353, except that array is omitted, never again to be included.[6] Since the "keepers" had ceased to be merely police officers and had become criminal law judges, it is natural that they should be deprived of their strictly military functions. Further, the fact that array had to be entrusted to a separate commission affords another reason besides those elsewhere presented,[7] for the recall of the justices of labourers; *three* sets of commissioners were obviously absurd. But since the whole problem of local administration was evidently receiving thorough consideration, it is difficult to understand the nature of the opposition that left the ordinance and statute of Labourers almost unenforced for several years and that prevented for nine years the statutory consolidation of commissions of the peace and for labourers.

It is now possible to view the famous statute of January

[1] 7 Dec. 1352; 12 Feb. 1353; *C.P.R., 1350–4*, 394, 449–50 (power of determining felonies omitted in Calendar).

[2] 19 March; printed by Messrs. Crump and Johnson in *English Historical Review*, XXVII, 233–4; cf. my *Early Treatises*, 193, note 1.

[3] Rymer, *Fœdera*, III, pt. i, 449–50; 455–8. *C.P.R., 1358–61*, 286, 324.

[4] *C.C.R., 1354–60*, 655; *Statutes of Labourers*, 17; app. 31–2.

[5] Rymer, *Fœdera*, III, pt. 1, 463–4.

[6] But supplementary instructions to the justices to carry out array were sometimes issued; *e.g. C.P.R., 1367–70*, 264–5; *C.C.R., 1369–74*, 36. The whole subject of array is greatly in need of investigation. *Cf.* also the added powers over escapes, etc., granted to the justices of the peace by Letters Close; *C.C.R., 1354–60*, 363, 5 May 1357.

[7] *Statutes of Labourers*, 23–4.

1361,[1] in its proper light. It sanctioned the transformation of the keepers into justices, a change that had already been carried out in practice for eleven years; it added weights and measures to their jurisdiction, and some new, relatively unimportant clauses on labourers, omitting strangely enough the laws of 1349 and 1351, and contained a clause on summary arrest of "suspects" so ambiguous as to need thorough investigation.[2] The commissions of 20 March [3] are noteworthy for the resuscitation of the old Trailbaston preamble, and for the addition to Winchester and Northampton of "Westminster," clearly the new statute; and of course contained all its provisions. The next change came in the commissions of 20 November 1362,[4] which were probably drawn up in parliament, and which differed from those of 1361 in the following points. They omit the preamble and the clauses on suspects, except that based on the writ *de minis*, added in 1361 without statutory authority; they specifically include jurisdiction over all the labour laws. In view of the exaggerated emphasis on the statute of 1361 by later historians, it is ironic to find that shortly after its enactment a reaction occurred against the justices of the peace almost as serious as that of 1332–1337. Commissions of 8 March 1364 show that council and chancery although granting them jurisdiction over forestalling and regrating had deprived them of final authority over labour laws and of determining felonies, thus disregarding "the plain words of a statute"; [5] as in 1330 their indictments were to be sent to the justices of Gaol Delivery. The details of the controversy must be left for future research. Here it is sufficient to say that in 1368, apparently as the

[1] 35 Edw. III, cc. 1, 5, 6, 9, 10 and 11.

[2] *Cf.* the interesting article cited *supra*, p. 45, note 2, and my *Early Treatises*, 203–6.

[3] *C.P.R., 1361–4*, 63–7; 285, 3 July, 15 July, 3 Aug. 1362. For a brief account of the period through 1368, see *Statutes of Labourers*, 24–6; and my article in *English Historical Review*, XXI, 526–7.

[4] *C.P.R., 1361–4*, 291–3.

[5] *Ibid.*, 528–30. This instance has apparently escaped the attention of Professor Plucknett; *op. cit.*, 70.

result of successful agitation on the part of the commons, the reaction was ended by a statute.[1] The commission now includes peace, Winchester, Northampton, Westminster, inquiry into felonies and trespasses, into all labour laws, weights and measures, forestalling and regrating; the power of determining felonies and trespasses, with a quorum for the former, and a clause on the Custos Rotulorum.[2] Until the interesting re-organisation in the parliament of 1380, there are few alterations. In the extent of the authority of the justices, the chief changes at that date were the addition of extortion and the substitution in the inquiry clause of a detailed list of felonies and trespasses, some of them again described in the old Trailbaston phraseology, and also the specific mention of murder.[3]

In conclusion, it is to be emphasised that although the commons had failed to control the appointment of the keepers of the peace, they had succeeded in transforming them into justices.[4] But in the matter of other types of commissions to punish crimes of violence, the controversy continued. The subject of summary arrest came up again in the parliaments of 1378 and 1379, and petitions against Trailbaston are still recorded.[5] Until the problem can be investigated more thoroughly I venture to suggest that it was not the keepers of the peace who "stole the thunder" of the justices of Eyre,[6] but rather the justices of Trailbaston; and that the lineal descendants of the latter were the fifteenth-century justices of oyer and terminer who inherited also the unpopularity of both Eyre and Trailbaston. The strength of the position won by the justices of the peace on the other hand, lay in the very fact that they were rarely given extraordinary powers but that they

[1] 42 Edw. III, c. 6.

[2] *C.P.R., 1367–70*, 10 July, 1368, 191–4 (not adequately summarized).

[3] For the discussion, and for the commission of 26 May, 1380, *cf. R.P.*, III, 83–5; Beard, *op. cit.*, 46–8.

[4] I have noted only one petition in which the commons apparently tried to limit the power of the justices; *R.P.*, II, 366.

[5] *Ibid.*, III, 42–3, 65; Cam. *Hundred Rolls*, 80.

[6] *Ibid.*, 73.

were authorised to deal with felonies and trespasses by normal common law procedure.

As a result of this study several points stand out clearly. During the early years of their existence the justices of the peace do not deserve the epithet of "Statute Creature" contemptuously applied to them by later lawyers.[1] Again and again, a statute has merely sanctioned what actual experiment had proved useful. That is why the forms of their commissions are essential to an understanding of the powers and practice of the justices. Further, contrary to modern theories,[2] the commons in the reign of Edward III seem (if my interpretation be correct) to have shown considerable initiative and to have formulated a definite policy for local government; and thus to have played a large part in the development of the justices of the peace. Finally, the traditional view that the justices represented *primarily* the interests of the Crown against the feudal lords[3] does not seem to me sound, for the fourteenth century. Eventually, of course, they helped the central government overthrow feudalism; it was not only the county courts and sheriffs' tourn that were superseded by Quarter Sessions, but also the courts of private jurisdiction. In the reign of Edward III, however, there is plenty of evidence to show that the Crown preferred to rely on the feudal lords, the magnates,[4] rather than on the local gentry, in its fight for suppressing disorder. In other words, it was the commons, rather than the central government, who first recognised the value of the "pivot" of the English constitution.

[1] See my *Early Treatises*, 55.
[2] Pollard, *Evolution of Parliament*, 115, 335–6.
[3] Tout, *Conflicting Tendencies in Eng. Administrative History*, 1924, 22.
[4] *Cf.* Hughes, *op. cit.*, 229, for similar suggestions.

# THE ADMINISTRATION OF THE DIOCESE OF ELY DURING THE VACANCIES OF THE SEE, 1298–9 AND 1302–3

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William of Louth, Bishop of Ely, died on 25 March, 1298, and was buried on the south side of the choir of the cathedral church between two pillars near the high altar,[1] on the spot on which a magnificent altar tomb under a canopy was set up in his memory. After the funeral, as was the custom, the prior and monks assembled in the chapter-house and chose proctors to carry the news of the bishop's death to Edward I and to the Archbishop of Canterbury.

It was the right and duty of the Archbishop of Canterbury, as metropolitan of the province, to provide for the spiritual administration of the diocese when the see was vacant. The proctors found Archbishop Winchelsey at his manor house of Aldington in Kent. On 8 April he issued a commission to Master Richard of Otteringham, rector of Great Shelford, near Cambridge, to act as official during the vacancy ; " with full confidence in your industry and loyalty," he wrote, " we appoint you official of the diocese with power to exercise jurisdiction in all causes in virtue of our metropolitical authority ; we reserve to ourselves institutions and deprivations which do not belong to the office of an official." [2] The official was a legal expert, and as early as 1175 it was assumed that all bishops had officials.[3]

[1] *Anglia Sacra*, ed. H. Wharton, I, 639.

[2] *Register of Winchelsey*, ed. R. Graham, 247 (Canterbury and York Society).

[3] *Register of Matthew Parker*, ed. W. H. Frere, Vol. I, XIV (Canterbury and York Society).

During the archbishopric of Boniface of Savoy (1245–70), the chapters of four dioceses of the province of Canterbury made a composition with the metropolitan which gave them a voice in the appointment of the official and a share in the administration of the diocese during vacancies. These four dioceses were London,[1] Lincoln,[2] Salisbury,[3] and Worcester.[4] At Worcester, in a vacancy, the prior of the cathedral monastery became the Archbishop's official with power to exercise some episcopal functions, and the right to keep one-third of all profits and emoluments.[5] In the diocese of Ely, however, the Archbishop's choice of an official was absolutely free; all the profits and emoluments from fees and sequestrations fell to the Archbishop and he rewarded the official for his labour and expenses. The balance on Peter's Pence was included in the profits; in the diocese of Ely a fixed sum of £5 was paid over to the Pope, whereas over £15 was collected in the later years of the thirteenth century.[6]

In 1295 a vacancy occurred in the diocese of Coventry and Lichfield, being the first in which there was no composition to restrict the Archbishop. Winchelsey's registrar then entered in the register for future reference not only the commission to the official, but a series of supplementary documents,[7] a mandate to the clergy and laity to obey the official, another to the official of the late bishop to hand over the seal, rolls, registers and muniments of the officiality,

[1] *Registrum statutorum et consuetudinum ecclesie cathedralis S. Pauli*, ed. W. S. Simpson, p. 382, "Compositio super jurisdictiones sede Vacante"; *De episcopis Londoniensibus*, ed. Wharton, Appendix II, p. 255.

[2] *Lincoln Cathedral Statutes, The Black Book*, ed. H. Bradshaw and C. Wordsworth, 311–15.

[3] *Statutes of the Cathedral Church of Sarum*, ed. E. A. Dayman and W. R. Jones, 18.

[4] *Register of Peckham*, II, 632–5 (Rolls Series).

[5] *Registrum Sede Vacante*, ed. J. W. Willis Bund, *passim* (Worcestershire Historical Society).

[6] O. Jensen, "The 'Denarius Sancti Petri' in England," *R. Hist. Soc. Trans.* (*New Series*), XVI, 206; *Vetus Liber Archidiaconi Eliensis*, ed. C. T. Feltoe and E. H. Minns, 28 (Cambridge Antiquarian Society).

[7] *Reg. Winchelsey*, 58–61, 67, 73, 75, 79.

for in accordance with the constitution of the legate Otho in 1237 the seal bore only the name of the officiality, and was passed on from one official to another.[1] The official appointed by the Archbishop also received a commission to hand over the administration of the personal estate of the late bishop to his executors, who were bound to send his seals and pontifical ring to the Archbishop.[2]

On the death of a bishop the estates of the see passed at once into the hands of the Crown, keepers were appointed to administer them and account for the profits at the Exchequer. Presentations to livings in the bishop's gift were made by the Crown, and the King's chaplains and chancery clerks were always rewarded for their services. The first Crown appointment to a living was made on 8 April,[3] a fortnight after the death of Bishop William of Louth, but it was not until 26 April that letters of licence to elect a new bishop were given at St. Albans to Robert of Orford, the subprior of Ely, and two other monks who had brought the news of their bishop's death.[4] Both the late bishop and his predecessor had been Crown officials, William of Louth being treasurer and keeper of the Wardrobe, and John of Kirkby treasurer. Both of them were elected bishops by the monks by the method known as "inspiration," [5] *i.e.* by the unanimous consent of the whole chapter; both were strangers to Ely, and it is obvious that on each occasion the name was suggested to them by the Crown. In the common form of the licence to elect, the King commanded the monks "to elect as their bishop and pastor one who is devout towards God, capable of ruling your church, and useful and faithful to us and our nation." [6]

[1] Lyndwood, *Provinciale*, "Constitutiones Legatinæ," 68.

[2] W. Somner, *The Antiquities of Canterbury*, ed. N. Battley, Appendix to the Supplement, 12, No. IV*b*.

[3] *Cal. of Letters Patent*, 1292–1301, 339.

[4] *Ibid.*, 345.

[5] *Anglia Sacra*, ed. Wharton, I, 637, 638.

[6] *E.g.* W. Thomas, *A Survey of the Cathedral Church of Worcester*, Appendix 82, No. 70; W. Somner, *op. cit.*, Appendix to the Supplement, 17, No. VI*d*.

On the death of Bishop William of Louth, it was again assumed that the monks of Ely would elect the King's chancellor if his name was suggested to them. The freedom of election which King John had conceded to the Church in the first clause of Magna Carta did not conflict, in theory, with the principle of the Canon Law that, although elections must be free and lawfully conducted, the acquiescence and even the advice of the lay ruler was of the greatest importance.[1]

The keepers appointed by the Crown arrived at Ely to take possession of the estates of the bishopric, and they also took possession of the priory and the manors of the monks and retained them for several months ; they removed the janitor or porter and put another in his place.[2] This action was probably intended to influence the monks to elect the King's chancellor, John de Langton. Archbishop Stephen Langton had deplored the tendency of monastic chapters to elect monks as bishops, on the ground that " only a monk of real eminence in life and learning could ever be expected to make a successful bishop." [3] The prior and convent of Ely protested to the King against the seizure of the priory, and on 25 April Edward I wrote to the treasurer and barons of the Exchequer, instructing them to search the rolls, and certify him if it was usual to take the priory into custody when the see was vacant, and if the profits fell to the Crown, after making an allowance for the maintenance of the prior and monks and their servants.[4] A week later they replied to him : " We have searched the rolls, and we cannot answer fully in the absence of Nicholas Fermbaud, who was keeper of this vacant see in 1290. We have ordered him to inform us." On 3 May Edward I instructed the treasurer and barons of the Exchequer to summon the prior of Ely before them to show cause why

[1] F. M. Powicke, *Stephen Langton*, 81–3.

[2] *Reg. Winchelsey*, 253. [3] F. M. Powicke, *op. cit.*, 12.

[4] L.T.R. Memoranda Roll, 70, mm. 19, 19*d*, 20. I am much indebted to Mr. H. G. Rothwell for kindly giving me the references to the Memoranda Roll.

the priory should not be in the custody of the Crown. The prior sent a monk as proctor with letters under his seal, the barons of the Exchequer told him that it was not the custom in the King's court for a proctor to appear without a writ from the King sanctioning it, so the monk went home to Ely to tell the prior that his journey was fruitless. Nicholas Fermbaud next appeared before the Exchequer and gave evidence that although in 1290, at the last vacancy in the bishopric, he took the priory into the king's hands, he allowed the prior to administer it, but he did not know if he had any warrant for doing so. It was not a very accurate answer, and at a subsequent inquisition [1] at Ely evidence was given by John le Palfreyman on oath that when the see was vacant in 1286 the keepers of the bishopric took seisin of the priory and made the porter and the servant of the granatarius swear that they would be faithful guardians for the King ; the bishops had the right to appoint and remove the subprior, cellarer, chamberlain and sacrist, and so the keepers of the bishopric took away their keys and afterwards gave them back in the King's name. After three days the King graciously restored the priory to the prior. The procedure was the same at the vacancy in 1290, but the witnesses did not know for how long Nicholas Fermbaud kept seisin of the priory.

The prior and convent of Ely tried hard to regain possession of their manors before proceeding to the election of a bishop, and they appealed to Archbishop Winchelsey to defend them against this invasion of the rights of the Church. On 12 May the Archbishop wrote a letter of protest to the King, pointing out that although the estates of the priory were entirely distinct from those of the bishopric, the Crown officials were treating them as if the priory was vacant, whereas it was not.[2] The separation of the possessions of the priory from those of the bishopric dated from the reign of Henry I when the bishopric of Ely was created, and in the opinion of the monks Bishop Hervey

[1] L.T.R. Memoranda Roll, 70, m. 19. [2] *Reg. Winchelsey*, 253.

(1109–31) appropriated the larger and better portion of the lands of the abbey of Ely for the endowment of the see, leaving to the monastery maintenance only for forty monks instead of seventy.[1] The real grievance of the monks is revealed in this letter from the Archbishop to the King. Bishop Hugh de Balsham (1257–86) had been subprior of Ely before his election, and he first transferred the advowsons of Wisbech and Foxton to the prior and convent, and then gave them the great tithes by appropriating the churches to their use.[2] The revenues of Wisbech, assessed for taxation in 1291 at £26 13*s.* 4*d.*, were assigned to the refectory for which there was such scanty provision, only enough for eight monks' portions, that the other monks took their meals apart in the offices of the sacrist and other obedientiaries at their expense; the revenues of Foxton, assessed at £21 13*s.* 4*d.*, were assigned to charitable distributions from the almonry. These appropriations had been confirmed by Archbishops Kilwardby and Peckham when they visited the diocese of Ely in 1277 and 1284,[3] but the sanction of the Crown had not been asked, and accordingly in 1298 the Crown officials assumed that the livings were vacant and presented secular clerks to Archbishop Winchelsey for institution to Wisbech on 26 April, to Foxton on 27 April.[4]

The Archbishop knew that pressure was being put on the Ely monks to elect the King's chancellor, and on 12 May he sent them a strong admonition to proceed to a canonical election and avoid being influenced by carnal affection or love of gain or presents or threats, adding that the penalty of excommunication would fall on monks who were guilty of conspiracy.[5] His letter was to be read in full chapter and kept secret.

The election took place in the third or fourth week of

[1] *Anglia Sacra*, I, 617. [2] *Reg. Winchelsey*, 253, 254.
[3] *Vetus Liber Archidiaconi Eliensis*, ed. Feltoe and Minns, 18; *Ecclesie de Bernewelle Liber Memorandorum*, ed. J. Willis Clark, 173, 174.
[4] *Cal. of Letters Patent*, 1292–1301, 347.
[5] *Reg. Winchelsey*, 254.

May. All the monks assembled in the chapter house and discussed the three methods of election which were permitted by the Canon Law under the constitution, *Quia propter.*[1] The majority were determined to elect their prior, John Salomon, who came of a family of goldsmiths which had been established in Ely for over a hundred years.[2] It was decided to elect " by scrutiny," the method by which each monk recorded his vote in an open ballot; " this decision," wrote the Ely historian, " was to the great loss and damage of our monastery." [3] According to the Rule of St. Benedict, he was constituted abbot " whom either the whole community by common consent shall elect in the fear of God, or whom a small part of the same shall choose with greater wisdom." [4] Although sound in principle, it proved to be a dilemma in many a disputed election, for the minority could always claim greater wisdom. The difficulty was recognized in the Canon Law, and the conclusion has been admirably stated by Professor Powicke: " The traditional view, in electoral matters . . . was that *sanioritas*, even in a minority, should prevail; the general view in Langton's time and afterwards was that number, zeal or motive, and merit—merit both in the elected person and of the better nourished (*pinguiores*) votes of the wiser electors—shall all be considered, or at least two out of the three, if an election was to be regarded as valid. In practice both the *major* and the *sanior pars* was generally required." [5] The majority of the Ely monks, being in their own judgment the wiser and better part, elected their prior,[6] John Salomon; the minority elected the King's chancellor, John de Langton.

On 3 June Prior Salomon and some of the monks appeared before the treasurer and barons of the Exchequer, then at

[1] *Corpus juris canonici*, ed. Friedberg, II, 88, 89, " Decretalium Gregorii Papæ," Lib. I, tit. VI, cap. 42.
[2] F. R. Chapman, *Sacrist Rolls of Ely*, I, 157.
[3] *Anglia Sacra*, I, 639. [4] Cap. LXIV.
[5] F. M. Powicke, *Stephen Langton*, 81.
[6] *Anglia Sacra*, I, 639.

York on account of Edward I's campaign in Scotland, and asked for the King's consent to the prior's election.[1] Langton's supporters among the monks came to York [2] without the prior's leave, and thereby drew on themselves the displeasure of the Archbishop, who instructed his official to send him their names, for their too frequent absences from the monastery were a scandal to many.[3] The treasurer and barons of the Exchequer are alleged to have told the prior and his adherents that unless they would agree to provide the monks who supported Langton with money for expenses, the keepers of the bishopric would continue to hold the manors of the priory, and worse things would befall the monks.[4] A day or two later John de Langton left York to visit the Archbishop of Canterbury.[5]

On 16 June Archbishop Winchelsey again appealed to Edward I against his custody of the priory,[6] and this time with success; on 26 June the King wrote from Kirkliston, to instruct the keepers of the bishopric of Ely to give up the manors and chattels of the priory to the prior and convent, and allow them to hold their possessions in peace until Michaelmas.[7] Subsequently the King pardoned them for appropriating Wisbech and Foxton in consideration of a fine of £333 6*s*. 8*d*., and granted them a licence to keep these churches.[8] On 1 July the subprior of Ely and some of the monks appeared before the Archbishop in the parish church of Lambeth, bringing with them the documents relating to the election of Prior Salomon, and they begged him to fix a day to examine the proceedings.[9] He told them that he must first summon the opposing party to state their case. He was shocked at the "multitude" of Ely monks who were riding about the country in support of the two bishops-elect, since only proctors and witnesses ought to be absent from the monastery. On 8 July he

[1] L.T.R. Memoranda Roll, 70, m. 19.
[2] *Ibid.*
[3] *Reg. Winchelsey*, 259.
[4] *Ibid.*
[5] *Cal. of Letters Close*, 1296–1302, 210.
[6] *Reg. Winchelsey*, 258.
[7] L.T.R. Memoranda Roll, 70, m. 19.
[8] *Cal. of Letters Patent*, 1292–1301, 365.
[9] *Reg. Winchelsey*, 266.

instructed his official, Master Richard of Otteringham, to notify all monks outside the monastery that they must return within three days, and to admonish them to cease from conspiring and holding secret meetings; he was to see that the Archbishop's letter was read in the chapter house and send him a full report.[1] Four days later the Archbishop instructed Master Richard to have a public citation read in the cathedral church of Ely, summoning John de Langton to appear before him in his manor house of Slindon in Sussex on the third law day after 14 September.[2]

On 19 July Edward I signified to the Archbishop that he had given his consent to the election as bishop of Ely of his chancellor, John de Langton, who was useful and faithful to the King and the realm. He had weighed the question carefully, the monks who supported Langton claimed to be the wiser part of the chapter, their documents were drawn up in the proper form, whereas there was a defect in those submitted by the party who supported prior Salomon.[3] Neither party had been able to use the common seal of the chapter.

The Ely historian noted that the case of the disputed election began to be heard before the Archbishop, probably at Slindon in September, and the proceedings dragged on at great trouble and expense to the monks.[4] The publication of the last papal law book, the Sext, in the previous year, on 3 March, 1298,[5] was the real cause of the prolonged delays. It contained a section which was a long supplement to the Decretals on the law of elections, with special provision for elections which resulted "in discord"[6]; this commentary bristles with difficulties, and no blame should be attached to the skilled lawyers of the Archbishop's court if they were slow in advising him. The chancellor, John de Langton, appeared in person before this court late in

[1] *Ibid.*, 263–5. [2] *Ibid.*, 266, 267.
[3] Rot. Pat., 26 Ed. I, m. 10. [4] *Anglia Sacra*, I, 639.
[5] F. W. Maitland, *Canon Law in the Church of England*, p. 131, note 1.
[6] *Corpus juris canonici*, ed. Friedberg, II, 945–953, Sext. Lib. I, tit. VI, cap. i–xiii.

December.[1] The Ely historian relates that Peter of Reach, the proctor of Prior Salomon's party, had reason to fear that the decision would be unfavourable, and therefore he appealed to the papal court.[2] A Westminster monk records that the chancellor also appealed to the papal court [3]; on 14 February he handed over the custody of the great seal [4] and set out for Rome carrying the King's letters in his favour, and it is probable that some of the Ely monks went with him, for in January they had again complained to the King that they could get no money for their expenses.[5] The prior of Ely also started with some of the monks who supported him, although great hindrances were put in his way.[6] Archbishop Winchelsey was represented at the papal court by Master Reginald of St. Albans, whom he appointed as his permanent proctor on 11 January, 1299,[7] and he also retained two Italian lawyers, Master Matthew de Tyatino and his nephew.[8]

Langton's supporters brought charges against Prior Salomon in the papal court which they failed to prove.[9] The Ely historian relates that Pope Boniface VIII, like a just judge, weighed the suitability of Prior Salomon and the sincere charity of his electors, and was unwilling that he should be disappointed, so he gave the monks of both parties the opportunity of a fresh election,[10] suggesting to them the abbots of Westminster, St. Albans, St. Augustine's, Canterbury, Bury St. Edmunds and Evesham, being the exempt Benedictine monasteries which were directly subject to the papacy.[11] The dissensions between the contending parties were too serious for any agreement. Both bishops-elect formally resigned, doubtless to avoid further

[1] *Cal. of Letters Close*, 1296–1302, 230. [2] *Anglia Sacra*, I, 639.
[3] *Flores Historiarum*, ed. H. R. Luard, III, 105 (Rolls Series).
[4] *Cal. of Letters Close*, 1296–1302, 230.
[5] L.T.R. Memoranda Roll, 70, m. 25*d*.
[6] *Flores Historiarum*, III, 105.
[7] Reg. Winchelsey, f. 313. [8] *Ibid.*, f. 313.
[9] *Registres de Boniface VIII*, ed. Digard, 463 (Écoles Françaises de Rome).
[10] *Anglia Sacra*, I, 639. [11] *Flores Historiarum*, III, 105.

huge costs, and the way was open for the Pope to provide a bishop. In spite of Edward I's recommendation it was impossible for Boniface VIII to nominate John de Langton to Ely ; he was only a subdeacon and an unlicensed pluralist. On 21 April, 1299, as a compensation for his disappointment, Boniface VIII gave him a licence to retain the treasurership of the cathedral church of Wells, six parish churches in as many different dioceses, canonries and prebends in seven cathedral churches and one collegiate church, with leave to acquire two more benefices up to a total value of £1,000 a year,[1] equivalent to at least £20,000 at the value of money in 1914. John de Langton arrived at Dover on 11 June.[2] For the last four years he had defied Archbishop Winchelsey by claiming the rich rectory of Reculver, assessed for taxation at £113 6*s.* 8*d.*, and by appropriating the revenues by force.[3] On 6 August the Archbishop stated that Langton had incurred sentence of the greater excommunication, and he cited him to appear before the Archbishop's court on 18 September. Meanwhile, however, Winchelsey received the unwelcome news that on 29 June, at the King's request, Boniface VIII had provided Langton to the archdeaconry of Canterbury,[4] and so on 23 September he issued a notification to all the clergy and laity of the archdeaconry of Canterbury to obey the new archdeacon, John de Langton.[5]

Boniface VIII was too wise to force Prior Salomon on a resentful minority, and on 5 June he translated Ralph of Walpole, bishop of Norwich, to the see of Ely.[6] Walpole was no stranger in the diocese, for he had been archdeacon of Ely for eighteen years before his promotion to the cathedral church of Norwich,[7] and Norwich, like Ely, was served by Benedictine monks. The Pope made an admirable choice, and he then promoted Prior Salomon to the vacant see of Norwich. On 15 July he wrote to Archbishop Win-

[1] *Cal. of Papal Letters*, I, 58. [2] *Cal. of Letters Close*, 1296–1302, 253.
[3] *Reg. Winchelsey*, 350, 352, 354–6. [4] *Cal. of Papal Letters*, I, 583.
[5] *Reg. Winchelsey*, 360. [6] *Registres de Boniface VIII*, 443.
[7] *Vetus Liber Archidiaconi Eliensis*, ed. Feltoe and Minns, 286.

chelsey to execute his provision,[1] and request the King to restore the temporalities to the bishop. On 3 October Winchelsey sent a letter to Edward I quoting the mandate of Boniface VIII, and a week later the King ordered the restoration of the temporalities of Ely.[2]

On 26 October, in consideration of a fine of £666 13*s.* 4*d.*, the King restored the priory of Ely to the prior and convent with all its liberties, and granted that, in future vacancies of the see, the priory should not be taken into the King's hands; however, he reserved the right in vacancies to appoint and remove the subprior, cellarer, chamberlain and sacrist.[3] At an inquiry at Ely in 1302 the jurors declared that the Crown had never exercised the right in vacancies, and the bishop collated these officials in full chapter and derived no profit from it.[4]

For nearly eighteen months the diocese of Ely was under Archbishop Winchelsey and his official, Master Richard of Otteringham, rector of Great Shelford. Early in July, 1298, a messenger brought the Archbishop a letter from the subprioress and convent of Chatteris informing him that they had recently elected their prioress as abbess. The Archbishop instructed Master Richard to go to Chatteris at the earliest opportunity, inquire into the proceedings and also about the merits of the abbess-elect, and either confirm the election or pronounce it invalid.[5] The election was duly confirmed. Henry I had given the patronage of the abbey of Chatteris to the bishops of Ely[6]; after the confirmation of each newly elected abbess, the bishop had the right of nominating a nun, and during a vacancy of the see the right was exercised by the Archbishop. Accordingly Winchelsey nominated Idonea de Chilham,[7] although she was not competent to be a nun, because she was illiterate. The abbess and nuns protested, the Archbishop insisted and assured

[1] *Registres de Boniface VIII*, 463, cf. 443; Reg. Winchelsey, f. 132.
[2] *Cal. of Letters Patent*, 1292–1301, 441.
[3] Dugdale, *Monasticon*, I, 488; *Cal. of Fine Rolls*, 1272–1307, 419.
[4] Dugdale, *Monasticon*, I, 487.
[5] *Reg. Winchelsey*, 262.
[6] Dugdale, *Monasticon*, II, 614.
[7] *Reg. Winchelsey*, 324.

them that it would not be a precedent for future bishops of Ely to nominate a sister instead of a nun. This Kentish lady for whom the Archbishop was determined to find a home for life was perhaps mentally deficient, for she was most unwelcome at Chatteris, and the abbess and nuns clothed and fed her as a lay sister.[1] She complained to the Archbishop, and on 16 June, 1300, he wrote to the bishop of Ely desiring him to insist that Idonea should be clothed and fed as though she were a professed nun. The resources of the nuns were already strained, they were assessed for taxation in 1291 only at £57 2*s.* 2*d.*, and the Archbishop had recently given a decision that even poor nunneries must contribute to the tenth for national defence against the Scots.[2] Sir Hugh le Despencer had ceased to pay the nuns the yearly sum of £10 which they had always received from his ancestors. The Archbishop admonished Sir Hugh le Despencer to pay the nuns regularly,[3] but whether he obeyed is uncertain. A few years afterwards the church buildings and barns of Chatteris were destroyed by fire ; the nuns had nowhere even to lay their heads, and no food, and were dependent on the alms of the bishop of Ely, Robert of Orford.[4]

Another religious house for women also engaged the Archbishop's attention. In 1294 four sisters of the Order of Friars Minor or Minoresses came from the French house of Longchamp to the church and buildings which Denise de Munchensey had prepared for them at Waterbeach.[5] The parish church of Waterbeach had been appropriated to the Augustinian canons of Barnwell by William Longchamp, bishop of Ely (1189–96) [6] : the canons, as rectors, and the vicar feared that they might lose the tithes which Denise had paid them from her manor, and they took steps to protect themselves. On 12 February, 1294, William of

[1] Reg. Winchelsey, f. 137.
[2] R. Graham, *English Ecclesiastical Studies*, 320.
[3] *Reg. Winchelsey*, 325. [4] Dugdale, *Monasticon*, II, 618.
[5] A. F. C. Bourdillon, *The Order of Minoresses in England*, 14–18 (British Society of Franciscan Studies).
[6] *Ecclesie de Bernewelle Liber Memorandorum*, ed. J. Willis Clark, 66.

Louth, bishop of Ely, gave a decision that the canons of Barnwell should receive tithes of corn, hay and pastures, and the vicar the small tithes as freely as they did from Denise de Munchensey before the coming of the Minoresses, and the abbess and sisters pledged themselves to pay them.[1] In 1295 Boniface VIII exempted the Minoresses of Waterbeach from the jurisdiction of the Archbishop of Canterbury or any other prelate.[2] Four years later they refused to pay the tithes, and were supported by their foundress; the canons of Barnwell appealed to the Archbishop, and on 18 March, 1299, he admonished Denise to refrain from upholding them under pain of excommunication if she persisted; his letter to her was written in French, and on the same day he sent a similar letter in Latin to her husband, Sir Hugh de Vere.[3]

The Archbishop also intervened at Anglesey priory, a small house of Augustinian canons. He summoned the prior, John of Bottisham, to appear before him to answer charges of evil living and wasting the property of the monastery; the prior resigned "pure, sponte, et absolute," in the common phrase which covers many a forced resignation, and took an oath that within four days of his return to Anglesey he would hand over the administration to Richard of Otteringham.[4] On 7 January, 1299, the Archbishop sent a mandate to Master Richard to go to Anglesey and instruct the canons to elect a prior, not in haste but with wisdom: the late prior had an infirmity, and when he had attacks, the Archbishop desired that Master Richard should give him leave to walk in the precinct with an honest canon as his companion, but at other times he was to remain in the cloister. The canons elected their subprior, Roger of Weston, the Archbishop detected a flaw in the proceedings and declared the election invalid[5]; the right to nominate a prior therefore passed to the Archbishop, and the

[1] *Ecclesie de Bernewelle Liber Memorandorum*, ed. J. Willis Clark, 214–18. [2] *Cal. of Papal Letters*, I, 560.
[3] *Reg. Winchelsey*, 323, 324. [4] *Ibid.*, 299, 300. [5] *Ibid.*, 324.

canons consented unanimously to accept his nominee; he then had the wisdom to appoint their subprior, Roger Weston, and instructed Master Richard of Otteringham to install Roger Weston as prior, unless it was the customary right of the archdeacon of Ely.[1] It was, however, the right of the archdeacon, who was accustomed to receive a fee of £3 for the installation of the priors of Anglesey.[2]

The Archbishop showed wisdom in a difficult case of an institution to the rectory of Papworth St. Agnes.[3] A clerk in minor orders, Simon Ganet, was presented to him, the Archbishop ordered an inquiry, and on 7 January, 1299, when he was convinced that the presentation was legal, he instructed his official to induct Simon Ganet, but to continue to sequestrate the fruits, which he would hold either for the benefit of the rector, or of the church. In accordance with the constitution *Licet canon* of the council of Lyons in 1274, the rector was bound to reside and to take priest's orders within a year[4]; if he failed to take such orders, he was deprived *ipso facto*. It was, therefore, a wise precaution, in the interests of the parish, to leave the administration of the fruits under the supervision of the Archbishop's official.

On 25 August, 1298, in answer to a request from John of Drokensford, that he would reconsecrate the church and cemetery of Balsham, which had been desecrated by bloodshed, Winchester wrote from South Malling in Sussex that it was too far to come, and therefore he gave him permission to ask any bishop of the province of Canterbury to act instead of him.[5] On 30 August he instructed Master Richard of Otteringham to dispose prudently of the fruits of the church of Downham which he had collected on behalf

[1] *Ibid.*, 330, 331.

[2] *Vetus Liber Archidiaconi Eliensis*, XIII, XIV.

[3] *Reg. Winchelsey*, 298.

[4] *Corpus juris canonici*, ed. Friedberg, II, 953, Sext. Lib. I, tit. VI, cap. xiv; *Rotuli Ricardi Gravesend diocesis Lincolniensis*, XXVIII, XXIX (Canterbury and York Society).

[5] *Reg. Winchelsey*, 280; cf. *Register of John of Drokensford*, 62 (Somerset Record Society).

of the Archbishop; he was to sell them to the highest bidder, but if the new rector, James de Columbariis, was willing to buy them at the top price, he should have the first opportunity of securing them.[1]

The college of Peterhouse at Cambridge had been founded in 1284 by Hugh de Balsham, Bishop of Ely.[2] During the vacancy in the see, Archbishop Winchelsey claimed a founder's rights in the House of St. Peter or Hall of Scholars of the Bishop of Ely; he nominated a poor scholar, Master Richard of Aylesham, and sent a mandate to the Master and scholars to admit him and give him all their privileges, so that he might continue his studies as he desired to do.[3]

The Archbishop kept a watchful eye on clerks who were imprisoned for crime by the secular authorities and were entitled to benefit of clergy. John de Berwick and his fellow-justices in eyre sat at Cambridge. In the autumn of 1298 Winchelsey wrote to the mayor of Cambridge commanding him to hand over to Master Richard of Ottering-ham clerks who had been brought before the justices on charges of theft or homicide.[4] One of the prisoners was Alexander, vicar of St. Vigor, Fulbourn, who was suspected of homicide; he purged himself before Master Richard, and was therefore regarded as innocent in the eyes of the law; so far he had profited by benefit of clergy, but eighteen months passed before the sheriffs of Essex and Cambridge-shire received instructions from the Crown to restore his goods and chattels.[5] A case which demands more sympathy was that of a chaplain, Walter Aliquid of Wiveling-ham, in prison for sheltering his own brother who was guilty of theft.[6] Walter purged his innocence before Master Richard, but could not recover his lands, goods and chattels from the sheriff of Cambridgeshire. In 1300 Bishop Wal-

[1] *Reg. Winchelsey*, 281; cf. *Cal. of Letters Patent*, 1292–1301, 347.
[2] R. Willis and J. Willis Clark, *The Architectural History of the University of Cambridge*, I, pp. xvi, xxxiv.
[3] *Reg. Winchelsey*, 322. [4] *Ibid.*, 293, 294.
[5] *Cal. of Letters Close*, 1296–1302, 337. [6] *Ibid.*, 361.

pole of Ely wrote to the King on his behalf; an inquisition was then taken by the sheriff and coroners of the county, evidence was given that Walter was of good fame and never a public or notorious malefactor, and at last, on 4 July, 1300, an order was sent from the Crown to the sheriff to restore his lands, goods and chattels.

The executors of the late bishop of Ely were slow in administering his estate. The Archbishop received a serious complaint from Elyas of Irby, who had made an agreement with Bishop William of Louth by which he parted with his lands and tenements to the bishop on consideration of food and clothing and also a pension of £10 a year for life. After the bishop's death Elyas could get nothing from the executors, and was forced to beg his bread, and in great distress he begged the Archbishop to help him. In 1300 Winchelsey sent a strong admonition to Walter Langton, Bishop of Coventry, as one of the executors, to relieve the necessities of Elyas, who was in the straits of poverty through their neglect.[1]

The Archbishop did not forget the affairs of the diocese of Ely after the enthronement of the new bishop. He had been baffled in his effort to secure the punishment of a monk of Ely, Robert of Swaffham, whose evil life was notorious, and who was constantly absent from the monastery in 1298, presumably as a supporter of John de Langton. He had been detected in his incontinence, and in answer to a letter from the prior, the Archbishop advised him to inflict the most severe punishment in accordance with the Rule of St. Benedict, and above all to keep him in solitary confinement until further intimation.[2] On 11 October, 1300, he reminded the bishop that Robert of Swaffham was delivered to strict imprisonment by the archbishop's mandate, or at least that he ought to have been, and yet he went about uncorrected outside the diocese with men at arms to protect him, in defence of the rights of the church of Ely as he alleged. The scandal was intolerable, and the Archbishop

[1] Reg. Winchelsey, f. 139. [2] *Reg. Winchelsey*, 275.

commanded the bishop to keep him in custody outside the monastery.[1] Robert of Swaffham apparently had powerful supporters in the countryside, for the bishop demurred, and the Archbishop wrote again, somewhat hotly, on 13 November, reminding him that a good name is rather to be chosen than great riches.[2]

In the first year of his episcopate Bishop Ralph of Walpole held a visitation of his cathedral monastery of Ely. He scrutinized all the statutes and injunctions of previous bishops and archbishops, and on 17 June, 1300, he issued a fresh compilation, containing those which were useful and necessary, but shortening some, omitting others which were superfluous, and adding others to prevent the recurrence of dissensions and scandals. The statutes were entered subsequently in a register of the priory.[3] The bishop's register has not survived; all but eight of the Ely pre-Reformation registers disappeared, to the sorrow of Bishop Matthew Wren (1638–67) while he was in prison during the Commonwealth.[4]

Among Bishop Ralph of Walpole's gifts to the monks of Ely was a very fine copy of the books of the Canon Law for study in the cloister; "may his memory be praised and blessed for ever" added the contemporary monk of Ely who wrote the "Historia Eliensis."[5] To the great misfortune of the monastery and the diocese Bishop Ralph died on 20 March, 1302, not three years after he came to Ely.

The monks of Ely were determined this time to secure the election of their prior, Robert of Orford. Without waiting for the bishop's funeral, which took place on 1 April, they sent off proctors to the King and the Archbishop. On 29 March the Archbishop issued a commission to Master Richard of Otteringham, still rector of Great Shelford, to

[1] Reg. Winchelsey, f. 139.
[2] Ibid., f. 139, Proverbs xxii. 1.
[3] MS. Add. 9822, ff. 49–55, British Museum.
[4] A. Gibbons, *Ely Episcopal Records*, Wren MS., p. 149.
[5] *Anglia Sacra*, I, 640.

act as his official in the diocese of Ely as on the last occasion.[1] Remembering the dissensions at the last election Winchelsey wrote on the same day to Prior Robert of Orford warning him to refuse permission to monks to leave the monastery except in a case of absolute necessity.[2] On 4 April Peter of Reach, now subprior, and two other monks who had brought the news of the bishop's death, received licence from the Crown to elect.[3] On this occasion the Ely chapter decided on the method of election which is known as "by compromise"; they elected seven monks and agreed to abide by their choice, and on 14 April Prior Robert of Orford was elected bishop.[4] Proctors were sent to the King, and on 6 May Edward I signified to the Archbishop that he had given his assent to the election.[5] The Archbishop fixed a day for the examination of the proceedings relating to the election and also of the person of the bishop-elect. In the judgment of the Ely historian, the Archbishop was very difficult and objected to the election of Robert of Orford on the ground of insufficient learning.[6] Winchelsey was a distinguished scholar, a Master of Arts of the University of Paris of which he had been rector before he came to Oxford; there he took the degree of Master of Theology and was Chancellor of the University in 1288.[7] It is improbable that Prior Robert of Orford was a university monk. He appealed against the Archbishop to the papal court,[8] and the Ely chapter were willing to face the enormous expense; only one obedientiary roll survives for 1302, that of the sacrist, and it contains this significant entry, £66 13*s.* 4*d.* to help the prior,[9] and a loan of £300 was also negotiated with a firm of merchants of Lucca.[10]

The bishop-elect of Ely arranged to travel to Rome

[1] Reg. Winchelsey, f. 285*v*. [2] Ibid.
[3] *Cal. of Letters Patent*, 1301–7, 26. [4] *Anglia Sacra*, I, 640.
[5] *Cal. of Letters Patent*, 1301–7, 36. [6] *Anglia Sacra*, I, 640.
[7] *Dictionary of National Biography*, LXII, 155; *Snappe's Formulary*, ed. H. E. Salter, 323 (Oxford Historical Society).
[8] *Anglia Sacra*, I, 640. [9] F. R. Chapman, *Sacrist Rolls of Ely*, I, 6.
[10] *Cal. of Letters Close*, 1296–1302, 597.

with the bishop-elect of Worcester, who had also appealed to the papal court. The Archbishop had raised difficulties about the procedure in the Worcester election, the monks followed the method of "compromise," but in a dilemma the seven compromissaries had resorted to an alternative vote, and their final choice fell on one of themselves, John of St. Germans.[1] He consented with tears to his election, in the hope that as bishop of Worcester he could continue the building of the cathedral church and help the monks in their financial difficulties.[2] The latest papal law book, the Sext, was again a stumbling-block to the Archbishop; in the long statement of the case, dated 17 July, which he sent to Pope Boniface VIII, he set out the difficult points in order, adding that "modern doctors of law put varying interpretations on the constitutions concerning elections. Pray therefore enlighten my ignorance."[3] The impediment was not the tears of John of St. Germans, as was recorded in the Annals of the monastery of Worcester.[4] John of St. Germans was anxious about the appeal, and consulted the prior and chapter, giving them the opinion of the lawyers and explaining that they must send a proctor from the chapter or two instructed persons and pay their expenses; if the election should be quashed, powers must be given them to proceed to another election, for there was a danger that the chapter might lose their right to elect. If the expense would burden the chapter he begged them to excuse themselves to the Pope, and with their permission he would go to Rome, for the lawyers advised him that it was better to take the journey than to remain lukewarm and listless at home.[5] He asked for a letter to the Italian archdeacon of Worcester, Cardinal Francis of St. Lucy in Silice, who lived in Rome and farmed his archdeaconry.

On 15 August an order was issued to the Constable of

[1] Sede Vacante Register of Worcester, f. 1. [2] Ibid., f. 8.

[3] Reg. Winchelsey, ff. 333, 333*v*.; cf. Sede Vacante Register of Worcester, ff. 6*v*, 7.

[4] *Annales Monastici*, ed. H. R. Luard, IV, 551 (Rolls Series).

[5] Sede Vacante Register, f. 8.

Dover Castle to allow the bishop-elect of Worcester and his party to cross from Dover on his way to Rome, provided that he took with him no money or silver contrary to the King's proclamation.[1] The bishops-elect started in September and had adventures on their journey; on leaving the kingdom of France their company was separated, some were imprisoned and lost their horses and baggage. After many perils, with the exception of one servant, they all arrived in Rome on 13 October in good health, but with very little money.[2] They paid their respects to Boniface VIII and the cardinals, and 18 October was fixed for their appeal. The bishop-elect of Worcester had letters for the Pope from Edward I and the chapter of Worcester testifying to his manners and breeding, good character and great distinction in learning.[3] He had also a letter, dated 1 September, from the chapter to the Italian archdeacon of Worcester, Cardinal Francis of St. Lucy in Silice, asking for his advice, help and favour, since the Archbishop had been far too severe in examining the election proceedings.[4] He learnt with dismay from the lawyers in Rome that the appeal would involve the chapter in further heavy costs, and on the day appointed for the hearing, he resigned his claim to be bishop.[5]

Cardinals Matthew, bishop of Porto, Leonard, bishop of Albano, and Gentile, cardinal of St. Martin's in Montibus, were appointed to examine the Ely election; they sat on 18 October and again on 21, and reported that the proceedings were in accordance with the Canon Law and that the bishop-elect was to be commended alike for his learning and his character.[6] On 23 October the Pope presided over the full consistory court, and commanded the proceedings in the court of Canterbury against the bishop-elect of Ely

[1] *Cal. of Letters Close*, 1296–1302, 550.
[2] Sede Vacante Register, f. 13*v*; printed by W. Thomas, *A Survey of the Cathedral Church of Worcester*, Appendix, p. 84.
[3] Thomas, *op. cit.*, App., p. 83.
[4] Sede Vacante Register, f. 9*v*.
[5] *Registres de Boniface VIII*, 554.
[6] Thomas, *op. cit.*, App., p. 84; *Anglia Sacra*, I, 640.

to be shown to him.[1] Instead of allowing his learned counsel to speak for him, the elect of Ely came forward, and standing close to the Pope, to the great astonishment of all present, he said, " Holy Father, if you please, with your permission I will explain the proceedings in the Archbishop's court." He was so lucid and he expressed himself so admirably that all who heard him marvelled. " The Archbishop," he said, " put three arguments to me. I gave this answer to the first, this one to the second ; the third was very difficult and most entangling ; to avoid a conclusion, I did not give a theological answer, but a logical answer." The Pope and the cardinals burst into loud laughter, and the Pope said, " Certainly, my son, you gave him a good answer. I do not find you an empty vessel as the Archbishop has written ; nay, rather, I approve of you as a vessel filled with goodness and knowledge." The bishop-elect made a formal resignation to avoid the costs which might fall on the monastery through the intricacies and prolixities of the law,[2] whereupon the Pope provided him to the bishopric of Ely, and in the same consistory court he provided a Franciscan friar, William of Gainsborough, to the see of Worcester, instead of John of St. Germans.[3]

The lively account of the proceedings in the papal consistory court was probably communicated to the monk of Ely, who wrote the history of the bishops and the monastery by the young university monk, Alan of Hemingstone, who was present. The next day he wrote a letter [4] addressed to Laurence of Gloucester, doctor of theology, William of Cam, prior of the Benedictine house of studies at Oxford, and his fellow students there from the Benedictine monasteries of the province of Canterbury.[5] He did not forget

[1] *Anglia Sacra*, I, 640, 641.

[2] *Registres de Boniface VIII*, 554. The election was not " confirmed " as stated by the Ely historian, *Anglia Sacra*, I, 641.

[3] *Registres de Boniface VIII*, 547.

[4] Sede Vacante Register, f. 13*v* ; Thomas, *op. cit.*, App., p. 83.

[5] *Snappe's Formulary*, " New Documents about Gloucester College," ed. V. H. Galbraith, 341–50.

the disappointment to the monks of Worcester about John of St. Germans, but he rejoiced over the success of the bishop-elect of Ely: "I hope the bishop will soon be consecrated," he added, "and have permission to leave Rome." Alan of Hemingstone's letter was sent on from Oxford to the prior of Worcester by Richard of Bromwich, a Worcester monk who had gone back to Oxford after the election of the bishop. He added a postscript: "This news about John of St. Germans is very bitter to me. Now is that saying in the book of Proverbs fulfilled: 'a man's gift maketh room for him, and bringeth him before great men.' [1] It was indeed well known at Worcester that the Italian archdeacon did nothing unless he was urged by gifts instead of by words.[2]

Boniface VIII showed a wise judgment in not providing so timid a scholar as John of St. Germans to the see of Worcester. Pity for his disappointment at Rome would be out of place; a happier life of study and teaching lay before him. In 1308 the Abbot of St. Augustine's at Canterbury requested the prior and convent of Worcester to spare John of St. Germans for a time to instruct his monks in theology.[3] In 1310 he went with two of the monks from St. Augustine's to the University of Paris [4]; after five years he came home to Worcester, a regent in theology of the University with a letter of high praise from the masters and scholars of "that garden of delights" in which he had long "shone as a brilliant star." [5]

Boniface VIII instructed the cardinal bishop of Albano to consecrate Robert of Orford as bishop of Ely, and on 11 November the bishop contracted the usual large loan of 13,000 florins, representing at the current rate of exchange then about £2,166 [6]; it was required to pay the taxes known as the services which were divided between the "camera"

[1] *Proverbs* xviii. 16. [2] *Sede Vacante Register*, ed. J. Willis Bund, 41.
[3] J. M. Wilson, *The Worcester Liber Albus*, 76–8.
[4] *Ibid.*, 106–8. [5] *Ibid.*, 142, 143.
[6] *Cal. of Papal Letters*, I, 603.

of the Pope and of the college of cardinals and of their servants.[1] The bishop of Worcester was also consecrated by the cardinal bishop of Albano; the Pope was indignant with him before he left Rome,[2] and it may be surmised that the Franciscan friar had made no suitable gift in acknowledgment of his promotion. The bishops of Ely and Worcester had started on their journey home before 16 December,[3] and as soon as they arrived in England they went to the King at Windsor to present the papal bulls. The bishop of Ely was graciously received and on 4 February, 1303, he did homage for his temporalities which the Pope had requested the King to restore to him.[4] The bishop of Worcester was not so fortunate: when the papal bull providing him to the see was examined, it was discovered that the Pope had committed the administration of spiritualities *and temporalities* to him; in the presence of the King and his council he renounced the temporalities and was fined a thousand marks for bringing a bull which was prejudicial to the rights of the Crown.[5] Then he did fealty and the temporalities were restored to him.

In accordance with the usual custom, John de Langton, who had disputed the see of Ely with Prior Salomon in 1298, now claimed the right as archdeacon of Canterbury to enthrone Bishop Robert of Orford in his cathedral church [6] with the usual fees, the palfrey on which the bishop rode to the city for the ceremony, his saddle and the harness, his cape and hood and boots and socks, the silver cup which he used at table on the day of the enthronement, hay and provender for fifteen horses during his stay, food and drink for three days and a gallon of wine every night, two large wax torches and each night two smaller torches and twenty-four wax candles, and £6 13*s*. 4*d*. for travelling expenses.[7]

[1] W. E. Lunt, "The Financial System of the Medieval Papacy," *Quarterly Journal of Economics*, XXIII, 282, 283.

[2] *Sede Vacante Register*, 42. [3] *Ibid.*

[4] Rot. Pat., 31 Ed. I, m. 38. [5] *Ibid.* [6] *Anglia Sacra*, I, 641.

[7] Somner, *Antiquities of Canterbury*, ed. Batteley, Appendix to Supplement, 56, No. XXVIII*a*.

The bishop of Ely sent this answer to the archdeacon of Canterbury's demand: "I shall enter my see, not by any authority which you claim to have over me, but by the authority of the Pope." [1] And so he did. The bishop of Worcester did not resist the archdeacon. On the day of his enthronement, 8 June, 1303, he rode from Kempsey and dismounted at the hospital of St. Wulfstan; the archdeacon of Canterbury's official was there and took the bishop's palfrey and saddle, the cape and hood and boots and socks, and demanded his cup and £6 13*s.* 4*d.* for his expenses, which the bishop did not give him until he had inquired if his predecessors had done so.[2]

Since 1072, and probably before then, it was a privilege of the cathedral church of Canterbury to receive from every bishop of the province a cope and a profession of obedience.[3] On the plea that they had been consecrated in Rome both the bishops of Ely and Worcester refused to present "profession copes" to Canterbury. Six years afterwards, on receiving a complaint from the prior and chapter, Winchelsey summoned Robert of Orford, Bishop of Ely, to appear before him to answer the charge, and he also summoned the executors of the late bishop of Worcester.[4] Judgment was given against the bishop of Ely in the Archbishop's court, and in the long list of "profession copes" is that of Robert of Orford, a splendid and costly cope of embroidered samite, a stiff and handsome silk.[5] In consequence of Winchelsey's triumph probably, Robert of Orford was the more determined that the Archbishop should not get possession of his pontifical ring, which he would claim as his right [6] if Robert died before him. He gave it to the monks of Ely while retaining the use of it for his

[1] *Anglia Sacra*, I, 641. [2] W. Thomas, *op. cit.*, App. 85, 86.

[3] J. Wickham Legg and W. H. St. John Hope, *Inventories of Christchurch, Canterbury*, 14–16.

[4] W. Somner, *The Antiquities of Canterbury*, ed. N. Batteley, Part III, 106.

[5] J. Wickham Legg and W. H. St. John Hope, *op. cit.*, 16, 56.

[6] MS. Cotton Galba E., IV, ff. 26, 160, Brit. Mus.

life, and immediately after his death they hastened to fix it on a shrine in the cathedral church.[1] The Archbishop did not believe the monks' story, and sent a mandate to Master Richard of Otteringham to inquire into it, but with what result is not recorded.

Archbishop Winchelsey's register bears witness to the close study of the Canon Law by the Archbishop and his legal advisers.[2] Difficulties in interpreting the new papal law book, the Sext, led to appeals to the papal curia. If the papal decisions were wise, yet they cost immense sums of money, and these were paid by loans from Italian bankers, which crippled the bishops. Two appeals to the papal curia in the short space of four years involved the monks of Ely also in a heavy load of debt, from which they were not free twenty years afterwards. The dissensions in that monastery were due in the first instance to the intervention of the Crown in the election of the bishop, and they led to great demoralization among the monks. The monks tried to set their own house in order,[3] and Bishop Robert of Orford made a vigorous effort to prune abuses of which he had so intimate a knowledge.[4] Recovery was slow, and the darkest hour came before the dawn. In 1322 the Norman central tower of the cathedral church crashed to the ground, bringing down with it four bays of the Norman choir.[5] The monastery was then over £2,000 in debt.[6] The next forty years was a brilliant period in the history of Ely under the rule of two great priors, John of Crauden and Alan of Walsingham, for the name of Alan of Walsingham, as sacrist and prior is always associated with the building of that glory of fourteenth-century architecture, the octagon lantern tower of Ely.

[1] Reg. Winchelsey, f. 17.

[2] F. W. Maitland, *Canon Law in the Church of England*, 81, 129–31.

[3] "Ordinaciones spectantes principaliter ad religionem et conventum," 1305, MS. Add. 41,612, f. 29*v*, Brit. Mus.

[4] MS. Add. 9822, ff. 58–61.

[5] F. R. Chapman, *Sacrist Rolls of Ely*, I, 18; *Anglia Sacra*, I, 643, 644.

[6] F. R. Chapman, *op. cit.*, I, 62.

# THE SYSTEM OF ACCOUNT IN THE WARDROBE OF EDWARD II

By J. H. Johnson, M.A., F.R.Hist.S.

*Read* 11 *April* 1929.

In his masterly account of the administrative activities of the Wardrobe, Professor Tout has necessarily been led to say something of its system of accounting; but his treatment of it has been to a great extent incidental to the wider aspect of his subject. In a paper read before this Society in March 1923, Mr. Charles Johnson supplemented Professor Tout's work by a study of the system of account in the Wardrobe of Edward I.[1] The system employed in the Wardrobe of Edward II during the first seventeen years of his reign was essentially the same as that of his father's time. For this earlier part of the reign, then, all that I propose to do is to supplement Mr. Johnson's account by a more detailed examination of certain points, a thorough understanding of which is of some importance to those who may have to interpret the evidence of these accounts on questions of constitutional and administrative history. In addition to this, it is hardly necessary to repeat that the reign of Edward II is of extreme importance in the history of the Wardrobe as a period of far-reaching reforms.

## General Sketch of the System of Account

The central point of the Wardrobe system of account

[1] The present paper owes much to both these works. I must also thank Mr. Hilary Jenkinson for constant guidance and advice. The work was first begun by Miss E. Nottingham, and was taken over by me when she was obliged by ill-health to relinquish it; she very kindly allowed me to use her notes and I owe to her especially most of my references to the Memoranda Rolls.

was the Liber Cotidianus,[1] drawn up at the end of each accounting period (the length of which might vary), and containing a complete record of the receipts and expenses for that period, distributed under various sub-heads.

Behind the Liber Cotidianus are the materials from which it was compiled and which were sent with it to the Exchequer for the purpose of audit. These fall into three groups :—

(*a*) Records compiled by the Wardrobe staff for their own convenience. The Journal was a book kept by the Cofferer or his clerk, giving the sums received and expended each day and the balance in hand each evening. There were other books containing rough memoranda of receipts from various sources, books recording the sums to be accounted for by divers persons (entitled Libri de Unde Respondebit), and books in which were entered copies of the accounts made with the Wardrobe by its creditors (the one example now left is entitled Liber de Compotis Diversorum,[2] but it is referred to in E. 101/374/5 as the Liber Memorandorum).[3]

(*b*) The accounts rendered to the Wardrobe by the departments subordinate to it—the Household Offices, the King's Butler, the Hanaper, the Great Wardrobe, the Households of the Queen and other members of the royal family at various times, and the Keepers of Victuals on the Borders. Only the total of the Household expenditure appeared in the Liber Cotidianus. The other accounts were usually split up and entered, often in a summarised form, under the appropriate headings.

(*c*) The documents known as Parcels of Account

[1] Sometimes referred to as the Book of Necessaries, or Book of Particulars.

[2] Br. Mus., Nero C. viii. (Unless otherwise stated, references throughout are to documents in the Public Record Office.)

[3] The Wardrobe had a counting table, counters (computatoria) "pro summis garderobe jactandis" and scales; presumably these were used chiefly in hearing the accounts here recorded (see E. 101/375/8, ff. 6, 8 and 9; Br. Mus., Nero C. viii, f. 54d.).

(Particule Compoti), of a similar nature to (*b*) but on a smaller scale, and comprising

(i) Accounts rendered by local officials for money expended by them, for which they were to receive allowance.

(ii) Accounts rendered by Wardrobe clerks and others employed on the King's business, receiving and paying money on the Wardrobe account.

(iii) Tradesmen's bills.

(iv) Accounts rendered by members of the Household or by those on military service of the sums received by and due to them.

All these were split up and entered in the appropriate sections of the Liber Cotidianus.

## Receipts

The account of the receipts was usually a part of the Liber Cotidianus, but was occasionally made up into a separate book or books.[1] The sums received are divided into two classes—those De Scaccario, and those from other sources, or Foreign Receipts, the former section being normally much the greater.[2]

This division is, however, very largely illusory. Only a small part of the income derived from the Exchequer was actually paid over in cash to the Wardrobe itself;[3] a very large part consisted of sums, usually small ones, paid directly by the Exchequer to Wardrobe creditors. The Chancery issued writs of Liberate for large sums of from £10,000 to £40,000 to be paid to the Wardrobe Keeper; the Exchequer then doled out smaller sums to those who produced some form of authorisation from the Wardrobe until the writ was exhausted, when a fresh one was issued.

[1] E.g. E. 101/376/11 and 14.

[2] Prof. Tout has given comparative figures for several years in *Adm. Hist.*, ii, 236 and App.

[3] Out of £43,000 received by Northburgh from the Exchequer in 13 Ed. II, over £7,000 was in cash. Melton received about £17,800 in cash out of £56,000 in 8–9 Ed. II, and Waltham £22,600 out of £45,400.

These payments, like those to the Wardrobe itself, might be made either in cash or in the form of a tally or letter of assignment upon some one who was due to pay money into the Exchequer.[1]

Very frequently, however, payments came from the Exchequer in nothing but name. The Wardrobe would obtain money direct from a sheriff, collector of customs, or some similar source, or services on the Wardrobe's behalf would be carried out by such an official in pursuance of a writ of Privy Seal or of Chancery.[2] This official rendered to the Wardrobe an account for his expenses in connection with the service or for the sums paid out by him, and when it had been passed he received a letter of acquittance. It seems to have been the almost invariable practice for him to take these letters to the Exchequer of Receipt and to obtain in exchange for them tallies which he would produce on making his account at the upper Exchequer; the allowance to him "per billam garderobe" then appears on the Memoranda Rolls among the Facta Summa. When the tallies were struck at the Exchequer and recorded on the Receipt Rolls,[3] a corresponding entry was made on the Issue Rolls, recording a payment to the Keeper of the Wardrobe by the hands of the accountant in question.[4]

[1] The tally might thus be levied either before or after the actual payment.

[2] Sheriffs thus come to account at the Wardrobe for many administrative services which would formerly have been allowed them on the Pipe Roll. *Anc. Corresp.*, Vol. 34, No. 63, contains an interesting description of the efforts of a collector of the sexannual tenth to get money from other collectors in order that he might comply with the order to cash a Wardrobe debenture.

[3] It may be noted that the catchword "Gard." was not always written against such sums in the margin of the Receipt Roll.

[4] For an example, see E. 101/374/15. T. de Swynford, sheriff of Notts. and Derby, received on 8 Jan. 1311, a Wardrobe letter for £70 9*s.* 5*d.*; in K.R. Mem. Roll 84, m. 87 (Status et Visus, Easter, 4 Ed. II), he is allowed the sum. He got the tally on the following 3 Nov. (I. Roll 159, R. Roll 198). These letters of acquittance were not in the same form as the ordinary "Debentur in Garderoba," but were epistolary in style, addressed affectionately to the Treasurer and Chamberlains by the Wardrobe Keeper or in his name, and bearing his seal appended by a tongue, not applied on the face. The Exchequer endorsed them with the date when the allowance was made or the tally levied.

The Exchequer seems to have insisted upon officials accounting at the Wardrobe for expenditure of this nature even when they produced their indentures or other evidence of payment before the barons first.[1] It occasionally happens, however, that an accountant failed to obtain his tally from the Exchequer, and in such cases the payment to the Wardrobe was included among its foreign receipts.

It thus becomes clear that the Exchequer had little control over much of the money which the Wardrobe nominally received from it, and that it is unsafe to draw from such evidence as the relative proportion of the two kinds of receipt conclusions as to the relative influence of the two departments. In Melton's keepership, which is usually looked upon as a period of constitutional administration, over a quarter of the sum said to be received from the Exchequer had actually been paid to the Wardrobe direct, and only put through the Exchequer Rolls afterwards (this without taking into consideration the tallies of assignment issued by the Exchequer).[2]

Moreover, while a large proportion of the so-called receipts from the Exchequer are really foreign receipts, we get the further paradox that many of the foreign receipts are not really receipts at all. A great number of them, as Mr. Johnson has explained, are really nothing but book-keeping entries. When a sheriff or other official made a short delivery of food or stock to the Wardrobe, the deficiency was sold back to him "super compoto suo," and the value was entered as a receipt from

[1] K.R. Mem. Roll 86, m. 116.

[2] In 13 Ed. II such allowances amounted to £9,600 out of £43,000, and for 14 Ed. II over £4,100 out of nearly £27,000. In Waltham's account for 15–17 Ed. II they form more than a quarter of the receipts from the Exchequer. In this connection some importance evidently attaches to the question of how many of such payments were ordered by writ of the Exchequer as compared with writs of Chancery or Privy Seal, but it is doubtful whether enough evidence survives to make decision possible. The practice of putting all these sums through the Exchequer Rolls was apparently to meet the demand of the baronial party that all issues of the land should pass through the Exchequer.

him ; the same course was followed when one of the clerks of the Household offices was found to have a deficiency in his stock. Somewhat similar is the entry as a receipt from various officials of the sums arising " de avantagio mensure frumenti empti et provisi cum avantagio " ; this is the very general practice of receiving 21 quarters as 20, the additional quarter being the avantagium (in the printed Liber Quotidianus it is called the " incrementum "). Other book-keeping entries are those of sales of stock, of the sums handed over in cash by the outgoing Keeper, and of the repayment by a Wardrobe officer of the surplus money remaining from an imprest.

Apart altogether from these book-keeping entries, it is certain that by no means all the other sums set down in the account of receipts were actually received. A close inspection of Waltham's account for part of the years 15–17 Ed. II [1] reveals that out of a total foreign receipt of £31,565 11*s.* 2*d.* over £8,000 appears also in the list of imprests at the end. The wording of many of the items makes it clear that the sums entered among the receipts had really not yet been paid to the Wardrobe, although they were due to it.[2]

The principal sources of foreign receipt besides those mentioned above are the " exitus placitorum aule," the " exitus mercati," and the issues of the great seal.[3] In Waltham's account they include £11,133 6*s.* 8*d.* from the Chamber, and £526 4*s.* 10*d.* from Ireland ; these are unusual and are probably due to special circumstances.

[1] Br. Mus., Stowe 553.

[2] For example, on f. 15 is entered £179 10*s.* received from Roger de Somervill for victuals sold by him ; on f. 137d is recorded the same sum as an imprest to him " in denariis remanentibus penes eundem in finem compoti sui," for which he is to answer at the Exchequer. Similarly, out of £1,463 13*s.* 8*d.* said to have been received by the sale of stock at Carlisle and Skymberness, no less than £1,333 14*s.* 8*d.* proves on examination to be represented only by letters obligatory from the purchasers, and appears among the imprests at the end, where the names of these debtors are given.

[3] See Mr. C. Johnson's article on the Wardrobe of Ed. I, *ante.*

Other common sources of income are fines for pardons and confirmations, the issues of forfeited lands, and the remission by creditors of part of the debt due to them in order that they might obtain payment of the rest.

The Wardrobe staff kept for their own purposes other accounts of sums received, from which the books presented to the Exchequer were compiled, and which were sent with them to the audit. First there is the Onus Garderobe, a roll copied verbatim from the Issue Roll of the Exchequer. From this was transcribed, in rather condensed form, the Wardrobe's account of its receipts from the Exchequer; for as such a large proportion of these never actually passed through the Wardrobe itself, there was no other way of getting at the particulars.

Another class of book, bearing no distinctive contemporary title, I shall call rough memoranda books of receipts. The entries, which comprise chiefly cash receipts, are set down under headings corresponding roughly with those used for receipts in the Liber Cotidianus, but with some additions. A comparison of a pair of such books belonging to the fourth year,[1] with the record of receipts set down day by day in the margin of the Journal,[2] reveals that all the cash received by the Wardrobe is not entered. Some items are in the memoranda books, but not in the Journal; these are in the majority of cases clearly sums which were never actually paid into the Wardrobe itself, but were received by some detached official and entered from his account. Usually, however, the Journal contains all the entries in the memoranda books, and more. Those payments not found in the memoranda books are generally small short-period loans (which are exceedingly numerous, and which are recorded only in the Journal),[3] receipts

[1] E. 101/506/18 and E. 101/374/6, which in all probability were originally one book.

[2] The Journal of this year is in two books—E. 101/374/7 and E. 101/373/30—the break coming at 14 February.

[3] These numerous small loans are of some interest, but it seems as though they can only be traced by means of the Journal, and Wardrobe

which belong in form to previous accounting periods, and sums returned by Wardrobe officials who have received them on imprest for meeting expenses.[1] The account of money received from the Exchequer given in these books is necessarily very incomplete, and is almost entirely limited to direct cash payments.

The chief value of these books lies in their inclusion of certain classes of receipt which do not appear, or which are disguised, in the final accounts rendered by the Wardrobe. In the first place, we have receipts from the Tenth and the Twenty-fifth; these are sums paid over directly by the collectors of those taxes to the Wardrobe. In the book for 3 Ed. II, the receipts "de decima" comprise, with one or two exceptions, the whole of the Tenth collected for the half-year. Only the receipts of the Michaelmas term are entered; these appear on the Issue Roll and on the Receipt Roll. Easter payments to the amount of £2,319 6*s.* 8*d.* are shown on the Receipt and Issue Rolls, but do not appear in this Wardrobe account book. The receipts from the Twenty-fifth are of a similar nature, and appear also on the Issue and Receipt Rolls, which, however, record other assignments on the Twenty-fifth for both Michaelmas and Easter terms.[2] The fact that all these transactions nominally take place through the Exchequer explains their absence from the foreign section of the Liber Cotidianus, where they figure, of course, among the receipts "de Scaccario." Such payments were not all made direct to the Wardrobe or to its officers; a considerable proportion was paid by the collectors to

Journals are unfortunately of rare survival. It would perhaps be worth the trouble to endeavour to ascertain whether a similar custom was common in the Exchequer—see the paragraph on loans, below. A comparative study of the Wardrobe Journal and the Exchequer Jornalia roll might be fruitful, for some Jornalia rolls strongly resemble the Wardrobe Journals.

[1] In the final accounts only the sum actually expended by them would appear, being derived from the account rendered by them to the Wardrobe.

[2] I owe these calculations to Miss Nottingham.

Wardrobe creditors, and there are numerous precepts in the Close Rolls to meet Wardrobe debentures in this way.[1]

Another heading which appears in these memoranda books, but not as a rule in the final accounts, is that " de mutuo." Loans tended to be repaid before the end of the accounting period [2] (even if this could only be done by raising a fresh one), and the entries of them in these books are usually expunged by underlining, and annotated with particulars of the method and date of repayment. Where loans were repaid by the Exchequer they appear in the end as a receipt from that department. The loans fall into three classes. First, we have loans, often large sums, and usually totalling up to a considerable amount, from foreign financiers such as the Friscobaldi. Secondly, there are smaller loans from various people, merchants and others, which have no very distinctive features. Finally, there are very numerous loans by royal officials, especially those of the Treasury. In some cases these appear to have been actual cash payments into the Wardrobe itself; in others they were made direct to the creditors; in the majority of cases they seem almost certainly to have been, in fact, temporary advances of money to tide over a shortage of cash in the Exchequer, and nearly all of them are repaid within a very short time—often the next day, or nearly so.[3]

[1] E.g. *C.C.R.*, p. 555 (1318); *ib.*, p. 44 (1314). Wardrobe bills paid off in this way were retained by the payer to be produced in support of his account. Orders to collectors of customs to make similar payments are even more numerous.

[2] One loan does figure in the enrolment of Melton's account (Pipe 166, m. 29), but there is no similar memoranda book for that period, so comparison is impossible: so with the loans in 11 Ed. II (Tout, *Adm. Hist.*, ii, p. 363).

[3] In E. 101/506/16, J. de Sandall, Lt. of the Treasurer, appears as lending £1,400 despatched on 22 Oct. from the Exchequer, together with £600 from that department, and delivered to the Wardrobe at York; and also £20 handed to the men carrying it, for the expenses of the journey. He is repaid by the Exchequer—£20 on the same day, £200 on 31 Oct., £700 on 6 Nov., and £500 on 7 Nov. (E. 403/149). The treasurer lent 100 marks on 19 March, and was repaid by the Exchequer on the same day; and 350 marks on 14 April, repaid on 30 April. In all the cases cited the repayments by the Exchequer seem to have been made

In this respect they resemble the small sums which appear in the Journal as received from members of the Household.

The marginal notes show that the lender usually received a bill or letter of the Wardrobe, which he surrendered on repayment. Where he had other dealings with the Wardrobe, the settlement of the loan frequently took the form of an allowance on his account.[1]

## Issues

The accounts which appear in their final form in the Liber Cotidianus were compiled from a multitude of subordinate partial accounts and rolls which had to be collected from various sources. For the expenses of the Wardrobe might be met in various ways. Payments might be made by the Cofferer himself and recorded in the Journal; they might be made by other Wardrobe clerks, by the Exchequer, by local officials, by foreign agents of the Crown, or by collectors of taxes or customs. The officials concerned might pay in cash, by a bill or indenture, or by a tally. Where a tally had been given by a Wardrobe officer it might be exchanged at the Wardrobe for a debenture, or it might be met by the Cofferer in cash; occasionally such tallies were cashed at the Exchequer.[2] In several cases, too, the Wardrobe account included those of semi-independent departments, such as the Hanaper, the Great Wardrobe, the King's Butler, and the Keepers of Victuals at Berwick, Carlisle and Newcastle, and these might be rendered to it with varying

in cash and not by assignment. In *Cal. of Fine Rolls*, ii, 158, is a long list of loans by Sandall which had not yet been repaid. These officials must have been men of substance.

[1] E.g. *C.P.R.* (1312), p. 491. In 7 Ed. II Gilbert de Bromley, as Receiver of Victuals at Carlisle, received a loan from divers northern abbeys. The Keeper of the Wardrobe issued letters patent of receipt, and the sums were to be allowed to the abbeys "in proximis solucionibus quas sibi facere tenebuntur sive de decimis sive pro servicio suo Scocie seu in aliis suis debitis quibuscumque" (E. 101/14/29).

[2] E. 403/155, m. 4, where it seems as though Wardrobe tallies must be meant.

degrees of promptitude. The net result was that a vast system of book-keeping was necessary to show the state of account between the Keeper and his various officers; there was also great confusion and delay in the compilation of the final accounts. The Keeper probably never knew the exact state of his finances at any moment, and there seems to have been no attempt to plan or limit expenditure; they simply lived from hand to mouth.

The Issues section of the Liber Cotidianus was divided under a series of ledger headings which varied very little from those used in the reign of Edward I. These can be seen in the printed account for the twenty-eighth year of that King, and have been fully described and explained in Mr. Johnson's article, so that we need only recapitulate them very briefly here.

First appears the total of the Household expenditure; no details are given, being shown in the Roll of Daily Household Expenses which was sent to the Exchequer along with the book. The remaining heads are Alms, Necessaries (which included everything not falling under the other heads), Victualia and Garnistura Castrorum, Dona (which included compensation for horses lost in the King's service), Feoda Militum, Vadia Servientum ad Arma et Scutiferorum, Vadia Peditum, Vadia Nautarum, Nuncii (payments to messengers carrying writs and letters, but not to ambassadors), wages of Falconers and Huntsmen, Robes (a valuable section, as it gives a list of the Household), Jocalia, and Magna Garderoba (which includes not only the account of the Great Wardrobe, but also those of the Butler and the Hanaper).[1]

The Household Roll, like the Liber Cotidianus, was drawn up in duplicate, as a part of the daily process of audit described in the Ordinance of 1278.[2] Very few of

[1] It should always be remembered that expenses incurred in one year may be brought into account in a later year. Where a group of expenses are spread over two years, they may even be all included in the account for the first year.

[2] See *Trans.* for 1923, p. 60.

the accounts kept by the clerks of the subordinate Household offices, from which the Household Roll itself was compiled, have survived for this reign.

The issues of food were calculated by the number of "messes," which are regulated very carefully in the Household ordinances, and could thus be checked by the roll of the Marshal, who kept a record of the arrivals and departures of the members of the Household. From this roll also were calculated the wages which were allowed every day in the Household Roll, but which there is abundant evidence to show were really paid at irregular intervals and often very much in arrears.[1]

In addition to the rolls of their offices showing the daily expenditure, the clerks had to render periodically an account to the Keeper for the expenses and receipts of their offices in money. The amount spent by them was then compared with the sum allowed for the expenses of their office in the Household Roll.[2]

The process of the separation of the King from the Household, which becomes more prominent in the next reign, is illustrated by the existence of a special roll of the Household expenses of the King "existentis per se" for the months of September and October 1315, kept by the Chamber clerk, Richard de Lusteshull.[3] It resembles in form the Household Roll proper, but is not so carefully

[1] Among the Foreign Receipts for 9 Ed. II (E. 101/376/11 f. 8d) is £89 19*s.* 6*d.* allowed to the clerk of the Marshalsea "per dietas in Rotulo expensarum Hospicii . . . ultra summam vadiorum . . . solutam," and so returned by him. An account was made from time to time with each member of the Household, and he then received a Wardrobe debenture for the sum due to him according to the Marshal's roll. In E. 101/376/17 is a roll of wages due, giving the dates, etc.; see also Br. Mus. MS., Nero C. viii—Liber de Compotis.

[2] Br. Mus. MS., Ad. 35293. The original of the Kitchen account for fifteenth and sixteenth years is extant (E. 101/379/1), and the copy of that for the fourth year (in Nero C. viii).

[3] E. 101/376/25; there is a similar one for May and June (E. 101/375/18). That the King was frequently not with the Household is suggested by the mention of J. de Houton as having been "out of court" several times in the company of the King in 13 Ed. II (Br. Mus., Ad. MS. 17362, f. 17).

written, and gives fuller details of the expenditure of the various offices; the expenditure is stated to be included in that given by the Household Roll. There is some likelihood that a rough roll such as that kept by Lusteshull was always drawn up first and used to compile the Household Roll. Such a procedure can be seen in the case of the Queen's Household in 19 Ed. II, when her household accounts, presented direct to the Exchequer, were modelled on those of the King. We have for this year both her finished roll of Household expenses and a portion of the preliminary roll giving fuller details of the expenditure.[1]

A considerable portion of the Wardrobe income was expended in the purchase of food—for Household consumption, for the army and garrisons, and for the sustenance of travelling officials and the King's horses. In addition to this, there were usually large purchases of material for miscellaneous purposes—cloth, military stores and goldsmith's work.

Food for the Household was obtained by the system of purveyance. The usual procedure seems to have been for the purveyors to give tallies in exchange for the goods received by them; on their return they handed in their portion of the tallies to the clerk of the office for which they were working, and he would return them to the Wardrobe when making his account.[2] When the tallies were brought in by the recipient they might be paid off in cash or exchanged for a Wardrobe debenture, which could be presented at the Exchequer. A record of the account made with the creditor and of the issue of the debenture

[1] E. 101/380/9 and 382/18.

[2] In Northwell's account for the Kitchen, 4 Ed. II (Br. Mus., Nero C. viii, f. 46d) we read that certain sums are owed "Sicut patet per DCXIX tallias per ipsum clericum in garderoba liberatas." See also K.R. Mem. Roll. 99, Recorda m. 94d, where a Wardrobe debenture is issued "per billam Clerici coquine Regis in garderoba liberatam"—eight years after the purchase; it was still unpaid in 18 Ed. II, when the holder petitioned for satisfaction. Northwell's account was not made up until 17 Ed. II, and by that time the names of many of the creditors were unknown.

was kept in the Liber de Compotis; at the same time in the Liber de Unde Respondebit an entry was made setting down the sum as an imprest to the clerk of the office concerned, for which he must account in due course. There must usually have been a considerable number of such outstanding debts; and these, if included among the expenditure, as was usually the case, had the effect of giving the Wardrobe Keeper an apparent excess of expenditure over receipts, which was gradually cleared off by the Exchequer after his account had been closed.

The money expended in the purchase of provisions for the Household did not always appear as such in the Keeper's account. The value of the victuals consumed was set down each day in the Roll of Household Expenses, and was thus included in that total; the wine, however, was set down, without price, in the margin of the Household Roll,[1] and its cost appeared under the Butler's account. Purchases of such things as fruit, spices and drugs were entered separately under the heading "Necessaria," and so were the expenses of the officers engaged in the work of purveyance.

Purveyances were not always made on credit, and purveyors were sometimes ordered to pay within a certain number of days for the goods they took. For this purpose they were authorised to draw upon local bodies or officials for the necessary money. When a large quantity of food was required for the Household or for the army, a different method was adopted. Letters patent of 19 February 1323 [2] lay down regulations as to the manner in which such purveyances are to be made. The sheriff is ordered to purvey a certain quantity of victuals by view and testimony of a King's clerk,[3] who is to certify the chancery of the names

[1] The same course was followed with other stock whose price had been charged elsewhere (bread in some cases), or which had been received "de presento."

[2] *C.P.R.* 1321–4, 242.

[3] In E. 101/559/5 the sheriff of Glouc. provides for the transport of corn by view of the mayor of Bristol and the bailiffs of the city of Gloucester, who append their seals.

of those from whom the victuals have been bought, so that the collectors of the Tenth and Sixth in that county may be ordered to make due payment; the sheriff will receive allowance in his account for the expenses incurred. The intention of the King and Council is said to be that the purveyance should be made with the goodwill of the people, and that payment should be made to them before the corn is out of their possession, "if they will be satisfied with nothing less." This method of payment was probably not a usual one, for the sheriff seems generally to have been responsible for making the payments, though he sometimes drew on other sources for the money. The common procedure is well set out in a mandate of 12 June 1313 [1] to the sheriff of Norfolk and Suffolk (and seven others) for the provision of victuals to be sent to Berwick. He is to act under the instructions of a King's clerk, with whom he is to make an indenture concerning the price of the victuals, which indenture the said clerk is to deliver into the Wardrobe on his return. He is also to make indentures for the delivery of the victuals to the mariners who are to carry them to Berwick, and these last indentures are to specify the cost of the victuals and of the expenses connected therewith, so that the Receiver of Victuals at Berwick may know at what price to issue them. The wages of the King's clerk are to be paid by the sheriff. Most of the Sheriff's Administrative Accounts for this reign in the K.R. Accounts Various are those rendered by the sheriffs to the Wardrobe in connection with this class of business. They are usually drawn up in a standard form and copied verbatim into the Liber Cotidianus under the head "Victualia" (examples may be seen in the printed book for 28 Ed. I).[2] If there was any deficiency it was sold

[1] *C.C.R.* 1307–13, 536.

[2] An excellent example is the account of R. de Refham, sheriff of Norfolk and Suffolk, in E. 101/574/22. This is a very complete and interesting group, containing writs, indentures, preliminary partial accounts, and the final account which is copied into the Wardrobe Book (E. 101/376/7, f. 21).

back to the sheriff "super compoto suo," and was entered as a receipt from him among the foreign receipts. If at the same time he had not actually paid over the cash for this deficiency, it was also charged to him as an imprest. Where corn became bad, or was lost by wreck or some other mishap, the accountant was allowed to strike it off as an expense after due enquiry by a commission.[1] The money for the purchase of provisions would normally be found by the sheriff from the issues of his bailiwick; where these did not for the moment suffice, he was sometimes authorised to draw upon another source, such as the Bardi or the collectors of taxes; such sums were treated as received by the Wardrobe from the Bardi or others and issued by it to the sheriff.[2]

Although there were regularly appointed purveyors for the various Household offices, the work of purveyance was, especially in the case of the Butlerage and the Great Wardrobe, frequently carried out by merchants, often under contracts to supply so much wine, etc., at a fixed price.[3] They were not, as a rule, paid separately for each consignment, but were constantly receiving sums on account, or were assigned the proceeds of certain taxes or customs.[4] The money received by them would in such cases appear in the Wardrobe account as a receipt from the Exchequer by the hands of the collectors, and would be balanced on the issues section by an entry under the expenses of the Butler or Great Wardrobe. It would also appear as an imprest to the Butler or Clerk of the Great Wardrobe in the Book of Unde Respondebit.

Military and naval expenses seem generally to have come under the Wardrobe until the reforms of 1324, but an exception must be made of the regular garrisons of

[1] E.g. *C.C.R.* 1318–23, 249 and 591.
[2] K.R. Mem. Roll 99, Trin. Rec.; see also *C.C.R.* 1318–23, 641.
[3] E.g. *C.C.R.* 1313–18, 522 and 551; 1323–7, 627.
[4] For one case, see *C.P.R.* 1307–13, 287; *C.C.R.* 1307–13, 288; and Br. Mus. MS. Nero C. viii, f. 21.

castles not on the Scotch marches, which in this reign do not account at the Wardrobe.

The majority of the troops were in the company of some magnate, and their wages would be paid through him, many of the magnates receiving large sums of money. The indentures of service by which they undertook to serve the King were kept at the Wardrobe for reference, and each magnate had to make his account with the Wardrobe and produce a certificate from the commander of the army that the terms of his indenture had been fulfilled.[1] There were also troops, such as the Welsh bowmen, who were paid directly by royal clerks.[2] There are no surviving receipts to show that the clerks had to produce evidence in support of the payments on their roll, and possibly the method of "view and testimony" was used; tallies would hardly be practicable, and if indentures were used some should have survived among the accounts.

The feeding of the troops on the Border was in the hands of the Receivers of Victuals at Berwick, Carlisle and Newcastle, who received their stock, for the most part, from sheriffs in various parts of England, and then issued it as required to the troops, much of it in lieu of wages. They rendered periodical accounts of their receipts and issues, both of money and stock, to the Wardrobe.[3]

In the printed Liber Quotidianus for 28 Ed. I the final group contains the expenses of the Great Wardrobe, Hanaper and Butlerage, and those of the Queen's Household while

[1] A good example is E. 101/15/11, the account of Robert de Hastings for his service in the Scotch war (10 Ed. II), together with indenture of service, certificate and writs. He sets down first of all the sums due to him for the wages of himself and men, and for a gift to him from the King; then follow the sums which he had received on imprest, both in cash and victuals; and, finally, the balance due to him. Numerous similar accounts are copied into the Liber de Compotis of 4 Ed. II.

[2] E.g. E. 101/15/25, 27 and 28.

[3] A considerable number of these survive, either in the original (E. 101/14/22) or as they were included in the Wardrobe account (Br. Mus., Nero C. viii, f. 66).

apart from the King. In the reign of Edward II the Queen's expenses are not shown separately, but those of the other three departments are always grouped together, when they all appear, under the general heading "Magna Garderoba."

Before its separation from the King's Wardrobe in 1324, there are very few remains of the accounts of the Great Wardrobe for this reign, and it seems rather likely that they were not very regularly kept; for not only are there few of the original accounts surviving, but down to the end of Ralph de Stokes' tenure of the office in 14 Edward II no Great Wardrobe accounts appear in the Liber Cotidianus, except under Melton, and then they are set down as prestita, implying that no account had yet been rendered. The explanation can be seen from the memoranda rolls,[1] whence we learn that Stokes was unable to render his accounts in 18 Ed. II because the clerks who kept them had not handed them over to him; and in 5 Ed. III, after his death, a chest full of his particulars was delivered to the Exchequer by the sheriffs of London. The clerk of the Great Wardrobe had to keep accounts of purchases, necessary expenses, liveries and imprests. When articles were sold by him, the price was entered among the foreign receipts in the Liber Cotidianus; the money expended went down among the issues under the section Magna Garderoba. Liveries and imprests against wages did not, of course, figure there, their value going down under the heading Robes or Wages.

Down to 1324 the Keeper of the Hanaper of the Chancery also continued to render his account and pay his receipts to the Wardrobe.[2] The receipts from this office appear among the foreign receipts; the expenses, which include the Chancellor's fee of £500 and the fees and robes

[1] K.R. Mem. Roll 100, Communia, Mich. Presentaciones.

[2] They were frequently paid direct to Wardrobe creditors, so that the Keeper of the Hanaper made a periodical account with the Wardrobe and paid off whatever balance remained.

of other officials of the Chancery, the purchase of wax, parchment and other small items, are analysed and are set down among the issues under the head Magna Garderoba.

The King's Butler or Chamberlain of Wines rendered his account to the Wardrobe. It was not uncommon for the Butler to sell wine, especially when it had become sour, and the proceeds of such sales were recorded by the Wardrobe among its foreign receipts. Otherwise only the expenses appear in the Keeper's account, together with a stock account of the disposal of the wine itself, included under the section " Victualia."

A departure from the normal procedure appears in the accounts of Stephen de Abingdon as Butler for the years 10 to 15 Ed. II, when Northburgh was Keeper of the Wardrobe. Abingdon was granted the right prise of wines in return for a payment of £1 a tun to the Wardrobe, subject to the necessity of paying the same amount to the merchants. This grant, dated 28 October 1317, was to be retrospective to the date when he received his office—18 July 1316.[1] On 31 July 1320, however, letters close were addressed to the Treasurer and Barons of the Exchequer explaining to them that, having just confirmed certain ordinances which provided for the resumption of all grants made by the King since 16 March 1310 to his damage, the King had ordered the Keeper of the Wardrobe to charge Stephen in his account with the wines of the right prise, notwithstanding the grant ; but as " for certain reasons " this account could not be finally terminated before the Keeper, the Barons were to cause Stephen to come before them at the Exchequer and to audit his accounts there.[2] This was followed on 22 September 1320 by another writ, ordering the Treasurer and Barons to allow the grant of October 1317 to be operative down to 23 May 1320, when the order had been given to Northburgh to charge Stephen with the prise wines in the usual way.[3] Stephen therefore duly accounted at the Exchequer for

[1] *C.F.R.*, 343. [2] *C.C.R.*, 249. [3] *Ib.*, 262.

the prise wines from 18 July in the tenth to 23 May in the thirteenth year, and the Exchequer directed a writ to Northburgh certifying him of the amounts due from the Butler for the prise wines and ordering him to hear that official's account and enter it in the Wardrobe book, charging him with the aforesaid sums.[1] From 23 May 1320 he was to be charged with the prise wines in the ordinary way.

Abingdon's account for the tenth year was rendered by him to the Wardrobe in London in December 15 Ed. II, and was entered in Northburgh's account for 13 Ed. II.[2] Here the payment of £1 per tun for the prise wines ceases to find a place among his expenses and figures among the foreign receipts as a payment by him to the Wardrobe. Apparently he rendered his account for all the remaining years (including some items belonging to the tenth year) later, as they are all included in Northburgh's account for the last year of his keepership,[3] for which unfortunately no Liber Cotidianus survives. The confusion in the Butlerage accounts then ceases, and under Northburgh's successor Waltham they present no unusual features.

In this reign the expenses of the Queen's Household are not set down separately in the Liber Cotidianus, although the Keeper of her Wardrobe rendered his account to the King's Wardrobe. Her accounts are all closely modelled on those of the King's Wardrobe and are incorporated therein under the appropriate headings.[4] The issues under the headings Pantry, Kitchen, etc., in the Queen's accounts are all marked as charged to the clerks of the corresponding offices in the King's Household, and so are presumably included in their accounts and in the Household Roll. The same procedure was followed in the case of other members of the royal family whose households were subordinate to that of the King.[5]

[1] Writ attached to E. 101/77/20. [2] B.Mus., Ad. MS. 17362.
[3] Enrolled on E. 361/2, m. 17.
[4] E. 101/376/20 compared with E. 101/376/7.
[5] At various times the king's brothers and the king's son accounted to the Wardrobe, but sometimes direct to the Exchequer. The house-

## Imprests

A very important part in the system of Wardrobe accounting was played by imprests, which seem to have been partly responsible for the difficulty which was found in making up the books within a reasonable time. There were two kinds of imprest, distinguished [1] as "prestita pura"—advances of money which had to be repaid—and other imprests, which were merely advances of money which would become due to the recipient at some date or which he required in order to carry out some work. Sometimes they were not even payments at all; thus if an accountant was found to owe money to the Wardrobe, it was set down as an imprest to him. The essential feature in all cases was that they became the subject of an account between the recipient and the Crown.

In order to keep trace of the numerous imprests the Wardrobe had a book known as the Liber de Unde Respondebit. The payments were here set down grouped under the name of the person who had to account for them, and when he had accounted the entry was expunged or cancelled and marked "quia computavit." When payments on imprest were made by the Cofferer himself the entries were possibly made at the time, but usually they must have been set down here as they were extracted from other accounts or documents. Thus besides imprests to yeomen and other members of the Household for wages, which give only small groups of payments, there are numerous large groups, sometimes occupying several pages, set down as imprests to the clerks of the various offices or to other officials such as the King's Fruiterer or the King's Pavilioner. The procedure seems to have been this. A purchase was

hold of the King's brothers accounted to the Wardrobe down to 3–4 Ed. II and after that to the Exchequer (Pipe 6 Ed. II, m. 44). W. de Culpho accounted to the Wardrobe for the Household of John of Eltham for 19 Ed. II (E. 101/381/12).

[1] K.R. Mem. Roll 87, m. 102; also E. 101/325/4.

made on behalf of the Wardrobe by some official—e.g. a purveyor buying fish—for which he may have given a tally or for which some sheriff or collector of taxes may have paid. When this tally or the bill replacing it was paid into the Wardrobe,[1] or when the sheriff appeared there and claimed an allowance, the payment was entered in the book of Unde Respondebit against the charge of the officer, that is in this case the Clerk of the Kitchen, for whose department the purchase was made.[2] In the right-hand margin was frequently entered the source from which the payments were made—per Scaccarium, etc. The items when cancelled are usually marked simply "Comp.," but occasionally we see the fuller entry "Quia computavit in libro memorandorum anni . . ." This was a book of the same type as that contained in the British Museum MS. Nero C. viii, entitled "Liber de Compotis Diversorum." (It is referred to as "Liber memorandorum" in E. 101/374/5).

Imprests were not necessarily made in cash. It was quite common for imprests on account of wages to be made in the shape of provisions, especially where the recipients were on military service. Members of the Household sometimes received imprests on account of their Whitsun and Christmas liveries in the shape of issues of cloth from the Great Wardrobe.

At the end of each Wardrobe Keeper's term of office a list of the imprests made by him and still unaccounted for was drawn up and sent to the Exchequer, frequently attached to the Liber Cotidianus for that year. This explains why such a list only appears at the end of some of these books. The Exchequer then became responsible

[1] See p. 87, note 2.

[2] E.g. on 17 March 1311 William de Castello received from the sheriff of Northumberland ten shillings for the expenses of carrying wood for the King's pavilions. On 2 April 1313 the sheriff rendered his account at the Wardrobe in London, and the sum of ten shillings was set down in the Book of Unde Respondebit as an imprest to John de Somerset, the King's Pavilioner (E. 101/374/5, f. 52d).

for seeing that an account was duly made by those on this roll.[1]

## Audit

On the expiration of his term of office the Keeper of the Wardrobe had to submit his account to the Exchequer. In the early part of the reign, however, the disorganisation in the public administration was so bad that there was great delay both in submitting the accounts and in the process of audit. The only one of Edward II's Wardrobe Keepers whose accounts were passed and enrolled before the end of the reign was Melton, who was Keeper for only one year. Drokensford's and Warley's accounts were never enrolled. The memoranda rolls of the Exchequer tell the same story time after time. The Keeper cannot account because his subordinates have not done so, because he is employed on the King's business, or because he cannot reduce his accounts to satisfactory order. The Barons or the Auditors are too busy to deal with the accounts or are themselves absent on the King's affairs. As Professor Tout has shown, the Keeper and Controller do not seem to have done in person much of the work of drawing up and rendering the accounts. Their political duties were so exacting that it was necessary for them to delegate their routine work to subordinates. The Controller had a clerk who attended to the drawing up of his accounts, and the

[1] The following will serve as an example. In 9 Ed. II Henry de Wardecoppe, sheriff of Westmorland, is alleged to have received from the servants of the late Gilbert de Bromley, Receiver of Victuals at Carlisle, six tuns of wine for the munition of certain castles. In the Liber Cotidianus the value, £24, is entered as an imprest to the sheriff (E. 101/376/7) and at the same time is included among the foreign receipts as a payment from G. de Bromley under the heading "Victualia Vendita" (E. 101/376/11). In Pipe Roll 166, m. 29, thisappears among the imprests with the note "Et respondet infra." On the same roll, under Westmorland, is the entry again with the note "Et respondet in rotulo xvi in Westmorland." In Pipe 168 the item then appears under the heading "De Oblatis." In the Memoranda Roll (K.R. 100, Hil. Rec.) for 18 Ed. II is a writ from which it appears that after all Wardecoppe denied receiving the wine.

accounting duties of the Keeper devolved upon the Cofferer.[1]

The Liber Cotidianus and its supplement, the Roll of Daily Household Expenses, had to be rendered in duplicate, one by the Keeper and one by the Controller, and the subordinate accounts from which they were compiled were also handed in.[2] Expenses were occasionally disallowed by the Barons and struck out with a note to that effect; but I have on the other hand found cases of expenses being included twice and apparently passed.[3] They used other checks also. When other accountants claimed allowance at the Exchequer for money paid to the Wardrobe or its clerks the Exchequer charged the latter with the sums until they could show that the money had been duly brought into account.

When the audit of the Keeper's account had been completed it was enrolled on the Pipe Rolls until the seventeenth year of the reign, when it became customary to enrol the Wardrobe and Household accounts upon a separate set of membranes. The enrolment gave only the total of each titulus in the Liber Cotidianus; the only portions of the latter enrolled in full were the list of imprests and the stock account of jewels and plate. The resulting surplus or deficit was also recorded on the Memoranda Rolls under the Status et Visus. The existence of a surplus, we must remember, denoted not that the Keeper had cash in hand but that he had spent more than he had received, or in other words that he had a list of debts. The paying off

[1] In 17 Ed. II Drokensford expressly stated that he had not been able when keeper to supervise the keeping of accounts through his frequent absences on the King's business. He also claimed, as a bishop, to be exempt from the onus of rendering account personally or of taking the oath (K.R. Mem. Roll 97, Hil. Rec.). For the Controller's Clerk, see E. 101/376/7, f. 28 and 87. The expenses of the clerks engaged in drawing up the accounts were allowed among the Necessaria. Waltham's account cost £182 10s., and took two years.

[2] There is an interesting list of some of Warley's accounts delivered to the Exchequer in K.R. Mem. Roll 105, m. 151d.

[3] See E. 101/376/7, f. 90d and 91.

of these debts would go on gradually for some years after the account had been closed, and would be recorded by the Exchequer as an issue to him. In the Pipe Roll, after the record of the surplus, appear further entries subtracting from it sums subsequently paid off thus.[1] After the seventeenth year, when it became customary to enter the Wardrobe account on a separate roll, the same procedure was still followed with regard to the paying off of debts. In the case of Wodehouse, his account for the twentieth year showed after subtracting debts a surplus "de claro" (presumably excess expenditure in cash) of £262 12*s*. 8½*d*. This was transferred to his account in the Pipe Roll of 4 Ed. III,[2] and he there received allowances on it; as the debts were paid off they were also marked off in the Pipe Roll against his surplus.[3]

## The Reforms

It is the reforms of the latter part of the reign that make this so important a period in the history of the Wardrobe. The reforms of 1318 seem to have had little influence on the system of accounting, and it is the Ordinance of June 1323,[4] coupled with the Exchequer Ordinance of May 1324,[5] which forms the turning-point in the history of the Wardrobe. It will perhaps be useful to summarise here the chief provisions of these two ordinances so far as they concern the system of Wardrobe accounting.

The York Ordinance of 1323 lays down that:—

(1) No money is to be paid or assigned for Household Purveyance except by the Wardrobe Keeper or on his letters. Payment for such purveyances, except "grosses purveyances

[1] See Melton's account enrolled on Pipe 166, m. 29. Benstead, Melton, Northburgh, Waltham and Wodehouse, the only keepers of this reign for whom we have final accounts, all had a surplus.

[2] Adhuc item Ebor.

[3] E.g. Pipe 185, Resid' Cant'.

[4] Tout, *Place of Ed. II*, p. 314.

[5] Hall, *Red Book of Exch.*, p. 908.

et pullerie," is to be made in the Wardrobe in the presence of the clerks of the offices.

(2) A clerk under the Marshal is to keep an account of the wages due to each member of the Household and to make out bills in his own hand half-yearly, to be delivered at the Wardrobe when the recipients account and are paid.

(3) The account of the Household expenses is to be drawn up daily, or at least every other day.

(4) The Butler and the Clerk of the Great Wardrobe are to make a view twice a year and to render their final account by a fixed date.

(5) All other "foreign" officials and the clerks of the offices are to render their account to the Wardrobe quarterly or half-yearly at the discretion of the Keeper; so that the accounts of the Wardrobe for each quarter may be made up during the following quarter, and be rendered to the Exchequer by February.

The Exchequer Ordinance of Westminster in 1324 was still more important:—

(1) The accounts of the Great Wardrobe, King's Butler, purveyors and keepers of victuals and keepers of the stud, except of great horses attending on the king's person, were removed from the Wardrobe Keeper's control and were to be rendered direct to the Exchequer. Where they supplied the Household with wine, etc., this was to be done by indenture and charged to the Keeper's account. The Hanaper also now became entirely separate from the Wardrobe and paid its money direct to the Exchequer, to which it accounted. Nuncii too were in future to receive their money from and to account to the Exchequer.

(2) The Wardrobe was in future to receive money from the Exchequer only, except in the case of gifts, fines levied in the Court of Verge and those imposed by the Clerk of the Markets. These fines were to be delivered to the Wardrobe Keeper by indenture, a copy of which with the estreats was to be sent to the Exchequer by Easter.[1]

(3) Imprests on wages were no longer to be made in time

[1] This arrangement had been anticipated by letters patent of 3 July 1323 (*C.P.R.* 306). E. 101/256/5 is a roll of estreats of fines of the market for part of 20 Ed. II, but was not sent to the Exchequer until 4 Ed. III.

of peace. Wages were to be paid at fixed periods, in arrears, after an account had been rendered by the recipient. Imprests made in advance to cover the expenses of those sent away on missions were to be accounted for speedily on their return.

(4) A special clerk was to be appointed at the Exchequer to receive and deal with the estreats, indentures and lists of imprests touching the Wardrobe and the departments now separated from it.

(5) The Keeper of the Wardrobe was to render his account by the 13th of October.

The effect of these ordinances at once became apparent. The account of Roger de Waltham, who ceased to be keeper on 19 October 1323, is on the old system; that of his successor, Robert de Wodehouse, is drawn up in an entirely different fashion. The Liber Cotidianus disappears, and we get a simple statement, on one membrane, of the receipts and issues, with the balance struck at the end.[1] The account of receipts is in full, but that of the issues is merely a summary, the details being "in rotulo hospicii" and "in libro de particulis." This statement was then copied on the Exchequer enrolment.

The place of the Liber Cotidianus was really taken, as far as issues are concerned, by the new Roll of Daily Foreign Expenses;[2] here the entries are divided by days as in a journal, each day's expenses being sub-divided under ledger headings, of which, however, there are only four—Alms, Necessaries, Gifts and Nuncii. The daily total of each of these heads is then inserted after the Household expenses proper in the Household Roll, which thus gives a complete account of the expenditure and is renamed the Roll of Daily Household and Foreign Expenses.

Besides these detailed accounts of expenses the Keeper also rendered a detailed book of receipts and imprests. It at once strikes us that the receipts from the Exchequer are of a totally different nature from those in the earlier books. In the place of a multitude of small sums paid

[1] E. 101/380/1.

[2] For the seventeenth year this was in book form: E. 101/379/19.

direct to Wardrobe creditors we see a few large sums paid direct to the Keeper, with an occasional very rare item of the old sort. For the last part of the seventeenth year the receipt from the Exchequer is made up of only four payments, totalling £1,666 13*s.* 4*d.*;[1] in the eighteenth year there are thirteen payments, amounting to over £18,000;[2] in the nineteenth the total is down again to £4,624 1*s.* 8*d.*, and although a few are in the shape of allowances or payments direct to officials the whole occupies only half a page;[3] in the twentieth year they are £4,105 5*s.*,[4] made up by five cash payments to the Keeper, totalling £4,100, the odd five guineas being the wages of the King's physician, paid by the Exchequer against the Wardrobe account by a special order. Another striking feature of the receipts from the Exchequer is that in the seventeenth year one of the four payments is made by authority of a writ of privy seal and not by the usual Liberate. In the eighteenth year six payments are authorised by the privy seal and six by Liberate, the remaining one being by mandate under the secret seal. In the nineteenth and twentieth years all the payments from the Exchequer are on writs of privy seal. The old method of issuing large block writs of Liberate seems to have ceased, and the writs of privy seal are issued separately for each payment.[5]

The rule that the Wardrobe was to receive money from the Exchequer only, except in cases specially laid down, was not entirely adhered to, but the sums paid directly to it by sheriffs and other local officials now are quite exceptional and amount to little.[6] The rule as to imprests

[1] Brit. Mus. Ad. 35114. [2] E. 361/2. [3] E. 101/381/15. [4] E. 101/381/6.

[5] Compare this with the practice shown in Sir H. Maxwell Lyte's *Great Seal*, p. 36. It had been common for individual payments on the Wardrobe account out of the block sum authorised by a writ of Liberate to be made by writ of P.S.; but it is new for the Liberate to be replaced by the P.S.

[6] Such payments amount to £815 0*s.* 11½*d.* in the seventeenth year (Ad. 35114); to £745 19*s.* 9¾*d.* in nineteenth year (E. 101/381/15); to £28 0*s.* 6*d.* in eighteenth year; to £122 5*s.* 5¾*d.* in twentieth year (E. 101/381/6).

appears to have been observed pretty strictly, the only infraction being an excess payment of wages in the twentieth year. The order for the separation of the Hanaper and other accounts from those of the Wardrobe was carried out at once and from the seventeenth year we find them regularly enrolled separately.[1] From the eighteenth year the accounts of the Queen's Wardrobe also were rendered direct to the Exchequer.[2] It is possible, however, that this separation was not so much an item in the financial reforms as a result of the Queen's residence abroad and estrangement from her husband. A writ of privy seal dated 20 November 1324 and directed to the Treasurer and Chamberlains of the Exchequer ordered that the Queen should in future receive from them a regular income of eight marks a day for her household expenses and one thousand marks a year for all other expenses.[3] We have a roll and counter-roll of the daily expenses of the Queen while abroad, March to November, 18–19 Ed. II.[4] For the latter part of this period there are a counter-roll of the Queen's "necessary" expenses, corresponding to the foreign expenses of the King's Wardrobe, and rolls of her Spicery and of her Pantry and Buttery. The main rolls resemble the Wardrobe rolls of Daily Household and Foreign Expenses. There are no separate Queen's Wardrobe accounts after November 1325; and from 1 November 1326 to 1 March 1327 her expenses are incorporated with those of her son.

The household expenses of the King's son John of

[1] From the appointment of Th. de Ousefleet as Clerk of the Great Wardrobe on 26 Aug. 1323 there is a remarkable change in the condition of the Great Wardrobe accounts; henceforth we have a fairly complete series of well-kept accounts.

[2] Pipe Roll 2 Ed. III, m. 43.

[3] This writ is preserved in Issue Roll 210, where are also recorded the payments made in pursuance thereof. In Dec. 1316 she had been granted 11,000 marks yearly, less the income of her lands in England (*C.C.R.* 380).

[4] The portion from Mich. to Nov. is added at the end and is not mentioned in the heading of the roll (E. 101/380/9); this continuation is omitted from the counter-roll (E. 101/380/10).

Eltham for the nineteenth year were accounted for at the King's Wardrobe by William de Culpho ; [1] but from 16 October 1326 Culpho rendered his account to the Exchequer, where it was enrolled on the Pipe.[2]

The evidence as to the extent to which many of the provisions were observed is not easily obtainable, but there is some to show that the order for the clearing up of past arrears was carried out, for in Warley's Liber de Compotis for 4 Ed. II the account of the Clerk of the Kitchen for that year is said to have been made in the seventeenth year. The Exchequer Memoranda Rolls, however, show that the rules for prompt accounting in the future were not fully observed. When called upon to render his account in 19 Ed. II, Wodehouse could not do so, as he was away in France and his sub-accountants had not yet accounted to him.[3] In 1 Ed. III he still could not account, as the Clerk of the Pantry and Buttery and other officials had not yet done so.[4] He finally accounted in 1329.[5] There is certainly some improvement, but not so much as the ordinances had contemplated ; perhaps it is hardly fair to expect more, however, at such an unsettled time.

[1] E. 101/381/12.
[2] Pipe Roll 19 Ed. II, m. 8 ; E. 101/382/3 ; *C.C.R.* 1323–7, 620.
[3] K.R. Mem. Roll 101, m. 150.
[4] K.R. Mem. Roll 103, m. 186d.
[5] Tout, *Ad. Hist.* iv. 91.

# THE IMPRISONMENT OF LORD DANBY IN THE TOWER, 1679–1684

By Miss A. M. Evans, M.A., F.R.Hist.S.

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There are few statesmen in English history who have been so completely the victim of their circumstances as Thomas Osborne, Lord Danby. He was Lord High Treasurer of England 1673–1679, an office which combined those of the Modern Chancellor of the Exchequer and Minister of Foreign Affairs, as well as that of the Chief Executive Officer of the Realm. In all these duties Lord Danby displayed conspicuous ability, and attained considerable success. He was certainly one of the most able financiers of those times. He entered office just after the responsible government of the day had repudiated its national obligation to its creditors, and declared a "Stop of the Exchequer." Trade was almost stagnant; every channel of revenue was drained at its source by Royal gifts and pensions; the financial ability of the Government was thoroughly discredited in commercial circles; the ordinary revenue of the country was inadequate to meet its needs. Yet out of this chaotic and insolvent condition Danby produced order, solvency, credit and prestige in the commercial world. His work in the Treasury would bear comparison with the ablest of the Chancellors of the Exchequer of England.

As Foreign Minister, also, he rendered England inestimable service. Ever since Clarendon's day, Charles II had received moneys from Louis XIV, and by the time Danby attained office he was fast degenerating into the paid servant of the King of France, and England was

rapidly becoming the mere appendage of France. Danby was an inveterate opponent of this policy. He lost no opportunity of fighting the power of Louis, both in England and in Europe. There was no man so feared and detested in France as Danby. The letters of Louis XIV; of his Ambassadors, Ruvigny, Colbert, Courtin, Barillon; and of William of Orange, bear eloquent testimony to this fact. In days of unparalleled bribery and corruption, when even men like Clarendon and Halifax received money from Louis XIV, Danby stood out with absolutely clean hands. Louis XIV himself complained that the Lord High Treasurer was absolutely incorruptible. That he did not obtain a greater amount of success was due to Charles II himself; but he did at least stem the tide of French influence in England and in Europe—a halt which proved of inestimable service to the cause of freedom in England.

As Chief Executive Officer of the realm, his position was one of exceptional difficulty. The whole tradition and precedent in England was that the King's Ministers were responsible to the King: that they were, in fact, the servants of the Crown. The Civil War and the Commonwealth had in theory established a new precedent, viz. the responsibility of the Ministers to the Parliament, and the control of the latter over finances, foreign affairs and the army. When the Stuarts were recalled at the collapse of the Commonwealth in 1660, was it an acknowledgment of the failure of the new theories, and a recall of the whole ancient régime and power of Kingship?—or was it merely the recall of an ancient royal house to fulfil a limited function? Nobody knew: nothing was really defined: this was not done until the Revolution of 1688. Unfortunately, Charles took one point of view, the Parliament in increasingly strong measure took the other. Danby took up office when this divergence of view had become acute. He regarded himself as the Minister of the Crown, in actual fact responsible only to the King—though feeling

strongly himself that the King should meet the wishes of his Parliament. Hence his position was in any case a very difficult one—but his very success as Minister doomed him to political extinction. Parliament's only actual check over the King was the power of the purse. Danby by the very efficiency of his Treasurership made the King fairly independent in this respect. His general administration also was so uncommonly good that he made it difficult for Parliament to attack the King, therefore the Houses felt that Danby must go at all costs. On the other hand, Louis XIV was determined Danby should go: he stood in the way of French diplomatic schemes. Charles II, his master, did not mind much *who* went, so long as money was available with little trouble, and at the moment French money seemed easier to obtain, since Danby was pressing for Royal economy. The King, however, was quick enough to see that Danby was an admirable pawn to him in his struggle with both France and the English Parliament. Nobody really wanted him destroyed: France and Parliament only desired him to be rendered politically impotent in the struggle that was taking place. By 1679, Charles was tired of the vigilant guardianship of Danby, and acquiesced in his removal from office by the Impeachment of 1679. It was a constitutional rather than a personal struggle. Nobody could prove the articles of the Impeachment, and all parties were satisfied with an indefinite and undefined imprisonment. Charles was particularly satisfied, because it still left him free to obtain Danby's advice, and still use him in the struggle for money with France. Thus Danby's fortunes and influence in prison fluctuate, according to the fortunes of the King's struggle, with both Parliament and France. It is only in this light that Danby's long imprisonment can be rightly understood. He was committed to the Tower 17 April 1679: he had been saved from the consequences of impeachment by the Royal dissolution of Parliament—but still remained a prisoner, and, in spite of many petitions to

King and Parliament, did not secure his release until 12 February 1684.

At first he was confined with one of the impeached Catholic Lords [1] in a suite of rooms with easy access to the battlements, but when it became evident that his stay would be lengthy, he was transferred to a much more spacious set of apartments, yet one which did not allow of walking on the battlements.[2] His family lived with him during the first few months, but then returned to their houses at Wimbledon and the Cockpit, which had been undergoing repairs and renovations.[3] His most constant companion during his confinement was his daughter Anne, the wife of young Coke of Holkam, who "made herself a strict prisoner with mea." [4] After Lady Danby's accident, 1682, she again lived in the Tower with her husband. All his old friends had free access to him, and many took advantage of this liberty. The Earl of Newcastle, Sir William Temple, Sir John Reresby, Sir John Evelyn, Earl of Carnarvon, Earl of Bathe, Earl of Chesterfield, Lord Ailesbury, Lord Conway, Francis Gwyn, Earl of Lichfield, Earl of Rutland, the Berties, were all frequent visitors and kept him well informed in State affairs. The clergy, too, who had consistently supported him during his impeachment, were often found in his society. The Bishop of Peterborough, writing to Danby in September 1682, says:

"The regard I have for your person and your zeal which you have showed for His Majesty and the established government: what some men may forget, I know not, but with me your kindness to the Church and Churchmen shall never be forgotten. . . . I intend to wait upon Your Lordship tomorrow in the morning."

This letter is typical of the attitude of the Bishops towards Danby. His private table was well supplied, and he never lacked guests. The economical Danby soon found

[1] Cath. Record Society. [2] Portland MSS., Vol. 2.
[3] Lindsey MSS. [4] Letter, Danby to Lord Conway. Hodgkin MSS.

that he had more than he desired, and he complained to his wife that "the custom of finding a dinner ready at the Tower is grown so habitual and to so many that I find it impracticable to continue it." [1] He was allowed to receive guests freely, and to conduct his correspondence as openly and as unrestrictedly as in his own home. He had also been compensated for his loss of office by a grant, which, according to the following letter to Charles II, was not regularly paid.

"I (*i.e.* Danby) understand that since the death of the late Lord Chancellor, the Grant which Your Majesty was pleased to bestow upon me in recompense of my place as Treasurer, has been sent back to your Majesty—and notwithstanding its having passed all the other offices, and that the Chancellor had received Your Majesty's particular command in my hearing for the despatch of itt, and that accordingly hee sent me word that hee had putt the seale to it, but that hee only desired to keep itt for his owne indempnity until I was att libertie to receive it myselfe . . . therefore my humble suit to your Majesty is, that as you were pleased to sende me word by my Lord Bathe and by my wife (when I was absented by your Majesty's command) that I should lose nothing you had given mee, wherever I should go, or in what place soever I should be, nor that I should not fare at all the worse for the malicious prosecution of the parliament; your Majesty would now be pleased either to command this Lord Keeper to putt the seale to itt, or if your Majestie shall not yett think that convenient, that you will be pleased to let mee have the grant in my owne keeping, till your Majesty shall think fitt to do so." [2]

The only restriction that seems to have been placed upon him was that he could not leave the precincts of the Tower without the special permission of the Privy Council, and it was not very frequently given. This was partly because many members of the Privy Council were political enemies of Danby, and partly because they hesitated to rouse the fears of a justly suspicious Parliament.

[1] Lindsey MSS. Letter, Danby to wife, 14 July 1681.
[2] Letter, Danby to Charles, 1682. Lindsey MSS.

Even when his wife lay seriously ill in their town house at the Cockpit in 1682, Danby was refused leave to go and visit her, the King supporting the Council in its decision.[1] The only time when he had permission for a prolonged leave of absence was when he had been very ill, and was allowed to go with his wife to the Astrope Waters.[2]

He had his share of troubles while he was in the Tower. He himself, always a delicate man, had several attacks of illness, a particularly severe one in 1680, when he was on a milk diet for some time.[3] In 1682, his wife, Lady Bridget, lay at death's door. She had been overturned in her coach as she was coming late from her house at Wimbledon. It had a serious effect on her, ending in a long and painful illness. She was reported to be dying and Danby petitioned the King to be allowed to visit her, if necessary, under a guard.[4] Unfortunately Lady Danby had caused a like petition to be sent to the Lords of the Privy Council. " His Majesty was not a little startled to see a business which he thought was solely in his own power, and did entirely depend upon himselfe, and in which His Majesty, to the utmost of his power, endeavoured to serve your Lordship, should now by a letter to my Lord Privy Seale be taken out of his hands and brought before the Council." [5] When the petition was brought before the Council this gave Halifax (Danby's great enemy) the opportunity of saying that the matter had been referred elsewhere, and so no permission was given either by King or Council for Danby to visit his wife.[6] After a long and tedious illness, however, Lady Bridget, whose constitution was as strong as her will, recovered, when she went to reside once more in the Tower with her husband. Her son tells the Duke of Newcastle, that " I believe the being

[1] Sir N. W. Throckmorton MSS.
[2] Portland MSS., Vol. III., 25 Aug. 1681.
[3] Portland MSS., Vol. III. [4] *Idem.*
[5] Hornby Castle Papers. [6] *Idem.*

with my Father will add much to her cure, she fretting herself so much before, that she might not see him." [1] In the same year his daughter Sophia lost her husband, Lord O'Brien. This was not merely the loss of a well-loved son-in-law, but meant the destruction of many fond hopes. In speaking of this, his sister-in-law, Viscountess Campden, writes :

" I heare my sister Danby is . . . in mighty trouble for the loss of my Lord O'Brien. Pore lady, it is very unfortunate for her, for I fear she has no joynture, and if her husband had outlived his father, she would a bine mistress of a vaste estate, and I believe my Lord Danby payed the late Lord O'Brien's father 3,000 of the pension." [2]

But this disappointment was as nothing compared with Danby's grief at the behaviour of his son, Lord Dunblane, who was engaged in a questionable intrigue with the notorious Mrs. H.de, one of Charles II's discarded mistresses. His conduct was the scandal of the town, and unfortunately his father's confinement in the Tower prevented any intervention on his part. Dunblane's uncle, Charles Bertie, speaks of the affair in the following terms :

" What we discussed some months ago is now unfortunately and unseasonably come to pass, and adds new sorrows to my lord Da by's afflications, I mean the marriage of my Lord Dunblane to Mrs. Hide, which cutts him more than the misfortunes of his own confinement. . . . You may easily imagine what a distraction this is to my poor sister, and how unhappily this revives the malice of the world against my lord of Danby, which was soe well allayed, and yet his Lordship makes the severest imprecations upon himself, if ever he knew either directly or indirectly the least syllable thereof." [3]

Danby was ever an industrious man, and during the years of his imprisonment he did not sit in idleness. Consequent upon the impeachment of the Lord High Treasurer, a number of tracts appeared in print. In late

[1] Hornby Castle Papers. [2] Lindsey MSS., 13 May 1682.
[3] Lindsey MSS., 13 July 1682.

1679 there appeared a vindication of Danby under the title "An Impartial State of the Case of the Earl of Danby." The author was anonymous, and claimed to be well versed in Treasury matters. The statement of the case was anything but impartial; so prejudiced was it in favour of Danby that many thought the Treasurer himself its author. There is little doubt that he inspired it. The pamphlet was answered in 1680 by an "Examination of the Earl of Danby's Case," which challenged all the statements of the previous writer. Danby himself then openly entered the wordy warfare, and in October 1680 published a long and detailed answer to the "Examiner," including a critical discussion of Sir Robert Howard's account of the Treasury in 1679. He apparently had access to the various records. Nor was he satisfied with this, but set on foot enquiries about the Fitzharris case, tracking down statements and their authors, many of which he succeeded in refuting, and proved (to his own satisfaction at least) that the Duke of Buckingham was responsible for most of the charges.[1] His own private business, too, must have occupied considerable time. He had vast estates and managed not merely his own financial affairs, but those of most of his family also. His friends came to him for advice, both on personal and political matters. Many people were sorry that Danby was not released. Though never a "popular" figure, he was well respected by all who knew him, and in his adversity he showed great generosity of mind towards his opponents. He was never vindictive, as his brother-in-law the Earl of Lindsey wrote to him:

"As to what you mention concerning the great ones I cannot but observe the 'non-pareil' generosity of Your Lordship who infinitely prefers the public before your own private satisfaction. For I believe most are of opinion, there is nothing under Heaven more conducing to your enlargement than the continuance of their animosities." [2]

[1] Hornby Castle Papers. [2] *Idem.*

During these years Danby was unremitting in his efforts to secure his release. He petitioned the King, he importuned his relatives and friends; no stone was left unturned. While Parliament was still vigorously disputing his case during the troublous months of May 1679 to October 1680, Danby was using his influence to secure the dissolution of Parliament, and to obtain his own release either from the Privy Council or the King himself. His three staunchest supporters in this were the Earl of Bathe, the Earl of Carnarvon and Lord Conway. He decided to petition the King in his Council 19 May 1679.[1] It was an unpropitious moment, for the Commons was just then demanding an account of £80,000 received by the Government from the French.[2] The Privy Council, therefore, being anxious to allay the storm, refused to read this petition. Danby then tried to appeal to Charles personally through his son-in-law, the Earl of Plymouth, who was the natural son of the King, and also through the Earl of Bathe. But Plymouth had no intention of linking his fortunes with those of his fallen father-in-law. He turned a deaf ear to the entreaties of his wife, and refused to see his brother-in-law, Lord Latimer, who visited his house repeatedly to secure his interest on his father's behalf.[3] Lord Bathe was much more diligent. The following is a typical letter from him detailing his efforts:

"Since last I saw you, I have had a long conference with our Master concerning you, having acquainted him fully with all things you gave me commission to say in answer to the message I brought you. I find him still confirmed in his opinion, that he cannot legally discharge you out of prison, or take bail before the Parliament meet, and therefore unwilling to do anything of that kind, and especially in your case, which needs, as he says, no illegal action to justify the same, the law being so clearly on your side, wherein he is resolved to stand by you and protect you according to those assurances, which he hath so often given you. However, he is contented to speak

[1] MSS. Lindsey. [2] Journals of Commons.
[3] Lindsey MSS. Letter, Latimer to Danby, 1679.

with your counsel privately either in the presence of the Lord Chief Justice, or without him as shall be desired, and if a way can be found out for his doing it lawfully, he will most readily comply with your desires." [1]

Charles, moreover, had informed the Earl of Bathe that Lord Justice North was favourably inclined towards Danby. The truth of the matter was, however, that Charles found his former Minister very useful in an obscurity where he might consult him without giving him controlling power, and without provoking the animosity of Parliament. But Danby was not to be deterred by the apparent indifference of his master. He sedulously cultivated the friendship of the Lords. He attempted to regain the goodwill of the Duke of York,[2] which he had lost when York was banished. He secured small but steady support in the Privy Council itself. The great Shaftesbury was less hostile than formerly, and his friendship increased in proportion as his views began to diverge from those of his late friend, Viscount Halifax, who was, until late 1683, the inveterate foe of Danby. Nor was the question of release allowed to recede into the background. It was kept continually before the eyes of Charles. Danby was constantly urging his son " to ask the King as from yourself what His Majesty thinks to do with your father, and whatever his answer shall be to you, be sure to say, ' Sir, I find very many wonder that your Majesty lets him remain a prisoner with your pardon.' " [3] His importunity, supported as it was by gifts of deer,[4] at length obtained its reward.

On 8 September 1679, Danby presented a new petition to the King. It was favourably received ; on 25 September a warrant was issued to Thos. Cheke, Lieutenant of the Tower, to release the Earl of Danby, and at the same time another warrant was issued " to all admirals and others

[1] Lindsey MSS. Earl of Bathe to Danby, 15 June 1679.
[2] Letter, Sir Hy. Goodriche to Danby, 19 Aug. 1679.
[3] Letter, Danby to son, 21 Aug. 1679.
[4] Letter, Latimer to Danby.

permitting the Earl to travel beyond the Seas, and to remain abroad for seven years." [1] "I think it for my service," says he, "that you should at this time go beyond sea, and I assure you that I will do nothing in your absence which shall in any kind revoke the pardon I have given you." [2] Sir William Jones, the Attorney-General, in answer to a letter from Secretary Coventry, said that he was of the opinion "that a person being committed by a Court of Justice—as the House of Lords is, and that the highest—cannot be sent for out of prison unless by a writ of Habeas Corpus under Seal." This was not the release Danby desired. He wished for a release the validity of which could never be questioned. He considered it inexpedient, therefore, to benefit by the King's orders, and decided patiently to await events. His hopes were now high, and he proceeded to sound the Lords and the Government officials about his case. He discovered that the Lord Chancellor was not adverse to his release, but considered the time unripe as yet; Lauderdale was indifferent, while Sunderland was a hearty supporter. His great enemy was Viscount Halifax, who happened at this moment to be influential in the councils of the King—and unfortunately for Danby, Charles was constitutionally unable to resist the man on the spot.

The year 1680–1681 was the high-water mark of Danby's influence with the King during his captivity. The latter was beginning to tire of his cumbersome council, and the high-flown panegyrics of Halifax about the religious and political liberties of the people. He was becoming more and more inclined to the old semi-despotic rule of Danby, and the change in his attitude was shown by his ever-increasing desire to release him on his own authority. As early as January 1680, Charles again issued a warrant to the Solicitor-General to release Danby on bail, and again in September 1680 he was doing the same. The latter, however, consistently refused to take advantage of

[1] Lindsey MSS. [2] Letter, King to Danby, Oct. 1679.

such warrants, his friends warning him "to think of Clarendon's case."[1] In October 1680, Parliament re-assembled, and for the first time since the impeachment, Danby's affairs were not mooted in the Houses. It is curious, also, that on 12 November 1680, though the Lords at the request of the Commons had made an order "that the Lords in the Tower may be more strictly confined and kept from corresponding with one another,"[2] Danby was not one of the Lords named. Thus had his quiet and discreet conduct obtained its own reward. Now, in his opinion, was the moment to secure his release, and in his eagerness he made a tactical mistake which ruined his project.

He advised the King to dissolve Parliament; and this was done 10 January 1681, in spite of great resistance from Shaftesbury,[3] and when, to escape the influence of London which was hostile to Charles and to Danby personally, Parliament was summoned to Oxford, 21 March 1681, he changed a rather indifferent Shaftesbury into a keen opponent, and further aroused the ire of the powerful Halifax. Danby seemed unaware of the strength of the opposition. He wrote to all his friends urging them to come to his support. He was sure of the Bishops' support, but was anxious about the attitude of many of the Lords. It was doubtful whether the King would be pleased at Danby's appeal to Parliament, so orders were given that Charles was to know nothing about the petition until it had been delivered. Its delivery was entrusted to the Earl of Lindsey, and the following Lords were security: Duke of Newcastle, Lord Rutland, Lord Norreys, Lord Chesterfield, Lord Ailesbury, and Lord Noel.[4] Lord Latimer, Danby's eldest son, went early to Oxford and waited upon his father's friends. He reported that all was well—Lord Albemarle, Worcester, Chesterfield, Ailes-

[1] Letter, Earl of Lindsey to Danby, 4 Sept. 1680.
[2] Journals of Lords. [3] Ormonde MSS., N.S., Vol. V.
[4] Danby to Lindsey, 18 March 1681.

bury, Herice, Culpeper, Conway, Feversham, Windsor, Byron, Wotton, Frescheville, Maynard, Noel, Northampton, Norreys, Lovelace, North, Clarendon, and the Duke of Newcastle, were all strongly on his side. "You have certainly the advantage of seven besides the bishops." His chief opponents were Howard of Escrick, Halifax, Shaftesbury, Salisbury, Grey of Warke, Essex, and Bridgewater.[1] The King himself, when at last informed, sent Danby "many gracious messages" through Lord Bathe, and "particularly that of yesterday, when His Lordship told me that Your Majesty did still continue your resolution of giving me my liberty and that you would speake with any of my friends (and with such only) about the most legal and prudential way of doing it."[2] Danby was full of hope and dared "be confident there be not ten men in the kingdom who would open their lips against it."[2] The following was the petition formally presented by the Earl of Lindsey to the House of Lords, 24 March 1681:

"The Humble Petition of Thomas, Earl of Danby.

"Most humbly sheweth,

"That your petitioner hath been detained for above three and twenty months last past; during which time of his restraint, he hath undergone several sicknesses, and hath been, and still is, very much impaired in his health.

"Wherefore, your petitioner humbly prayeth, that your Lordships would be pleased to bail your petitioner, he being ready to give good and responsible security to your lordships in what sum soever it shall please your lordships for your petitioner's appearance, as your Lordships shall think fit and direct."[3]

A warm debate ensued, but it was adjourned till 28 March. On the whole, Danby's friends were firm, and the affair promised well, but "it was very unfortunate that his friends finished not his business the first day. But my Lord Halifax, who fears his liberty may be prejudicial to

[1] Latimer to Danby, March 1679. Lindsey MSS.
[2] Danby to King. Hornby Castle Papers. [3] Journals of Lords.

his own ministry, had interest enough to adjourn it to the great dissatisfaction of the Court." [1] It was indeed fatal, for the next day the Commons, fearing that Danby might be released, appointed a Committee "to inspect the journals of the late Parliament relating to the Impeachment of the Earl of Danby." After a perusal of the journals they sent a message to the House of Lords: "That the Commons in Parliament assembled have formerly (referring to the old impeachment) by their Speaker, demanded judgement at the bar of the Lords' House upon the Impeachment of the Commons against Thomas, Earl of Danby, of High Treason, and do desire their Lordships to appoint a day to give judgement against the said Earl of Danby upon the said Impeachment." [2]

Danby was exceedingly anxious at the course events had taken, and wrote to his son urging him to consult his friends as to the wisdom of reopening the question. He thought that under the circumstances it might be expedient to drop his petition.[3] The King, however, rallied to his side. Monday was the day appointed for the discussion, but none took place, as Charles prevented it by a peremptory dissolution of both Houses. His speech was short and to the point.

"We are not like to have a good end, when the divisions at the beginning are such, therefore My Lord Chancellor, do as I have commanded you." [4]

Thus Danby's most promising attempt to secure freedom ended in failure. But he did not yet despair of success, for before leaving Oxford the King promised him personally, and his friends, that "he shall be liberated." Danby now concentrated his efforts on securing release through the usual legal process. In May 1681, he petitioned to be tried upon the accusation of Fitzharris, who had

[1] Letter, Sir Cyril Wyche to Ormonde. Ormonde MSS., N.S., Vol. VI.
[2] Journals of Commons.
[3] Letter, Danby to Latimer. Lindsey MSS. [4] Journal of Lords.

charged him with complicity in the murder of Sir Edmund Bury Godfrey.[1] His son Latimer had long since obtained proofs which refuted the charge, and had only been waiting an opportunity to bring them forward.[2] Sir Thomas Cheke, the Lieutenant of the Tower, was aware that Fitzharris, who was then in his care, was prepared to divulge the name of the person "who had put him upon accusing . . . the Earl of Danby."[3] Charles, however, at this moment was not anxious for a release, and the judges under his influence "upon a long debate thought it was not convenient to appoint his trial."[4]

For three more weary years he was doomed to tedious inaction, to bitter fluctuations of hope and despair, to the slowly dawning certainty that his King had need of his services no more. His own advice to Charles had sealed his own fate; for the rupture with Parliament had thrown the King once more upon France for support, another secret Treaty between the two being signed in 1681. And none knew better than Danby himself that release was impossible so long as the French interest was supreme in Court. The expedient, too, of revising the City charters had given Charles all power, which he was not anxious to share with his late minister.[5] His attitude was further strengthened by the return of the Duke of York, who practically became his brother's Prime Minister.

But "it is an ill wind that blows nobody any good," and the Royal opposition, or rather indifference, secured for him the goodwill of Halifax. For the latter, with that political inconstancy which is characteristic of him, began to draw away from the Court. He transferred his political animosity from Danby to the Duke of York to such a degree that in January 1684 he was fully reconciled to the late Lord Treasurer. But before this had happened

[1] Ormonde MSS.
[2] Letter, Latimer to Danby. Lindsey MSS. Also Hornby Castle Papers.
[3] Marquis of Worcester to March. Duke of Beaufort MSS.
[4] Ormonde MSS. [5] Although advised by Danby.

on four separate occasions between 1681 and 1684 Danby appeared before his judges on a writ of Habeas Corpus. The attitude of the judges was in each case greatly influenced by the political atmosphere. In 1682, for instance, Charles was at the height of his power, and had not yet seriously offended legal opinion. Lord Chief Justice Pemberton merely reflected the opinion of the Court; and unfortunately this did not favour Danby's release. The Earl of Lindsey in commenting on this to Danby, says that the Court are "at odds" about his release. He believes that most people prefer to wish their statesmen "at odds," than that "one single man shall engross the whole management of all public affairs," because—

(*a*) They act as a check upon one another.
(*b*) There is a better intelligence or knowledge of affairs by the public.
(*c*) It really leaves Parliament in control.[1]

This probably represents the real feeling in the kingdom.

Danby first appeared at Westminster 14 May 1681 to demand bail. He was refused it, on the ground that time must be taken to consider the matter until the next term. He again appeared 27 May 1682, and this time conducted his own case. He was attended by Lords Chesterfield, Bathe, Ailesbury, Arundel of Terice, and other Lords.[2] He explained that the delay in his re-appearance had been due to an indictment brought against him for his being privy to the murder of Sir Edmund Bury Godfrey. He had only obtained his discharge after the confession of the accuser Fitzharris "that he was put upon it to save his own life." Since that discharge, it looked as if there would be a Parliament, so he waited for that. But now there was no prospect of one; as he had been a prisoner three years, he appeared to ask for bail. The following were the grounds of his appeal:

(1) He had been both accused and committed without

[1] Hornby Castle MSS. [2] Portland MSS., Vol. II.

any oath or affidavit made against him for any crime whatever.

(2) There was no particular treason mentioned in the Articles, only the word traitorously had been applied to things which were not treason.

(3) When a short day was set by the Lords for being heard, his Counsel was then threatened if they did dare to plead matter of law for him.

(4) If all the Articles had been true, and matters of treason, he had His Majesty's pardon.

(5) The Pardon was accompanied by a Declaration of Innocency—that should have allowed bail at any rate.

(6) He had been detained above 40 months, without any prosecution the greatest part of that time—" which is another sufficient ground by law for the bail."

Danby spoke of—

(*a*) The inconvenience of accommodation in prison for about $2\frac{1}{2}$ years.

(*b*) Two most dangerous sicknesses.

(*c*) Loss of divers of his family.

He said that he had been informed that the King had told the Attorney-General he was pleased to allow bail. " He (*i.e.* Danby) did believe there was scarce a precedent in the world of the King's prisoners, and at the King's suit, not being bailed when there hath been the King's consent to it." He then entered upon a long legal argument, citing cases and precedents from Magna Charta downwards ; he agreed that nothing exactly covered his case, which was without precedent. He now therefore asked for bail as there was no hope of Parliament sitting. He concluded by saying :

" The King had sufficiently declared there was no danger in the letting him have his liberty, so he had such bail to offer his Lordship, as would sufficiently satisfy the world that he should be forthcoming to answer when and where that Court should appoint."

Lord Chief Justice Pemberton replied:

"They had heard His Lordship with a great deal of patience and that he had said many material things with much acuteness. . . .

"They could only compassionate him—for His Lordship was imprisoned by an higher hand (*i.e.* Parliament), and where they had no power to intermeddle . . .

"That, for his part, he was before of opinion, that they could not bail His Lordship, and he was so still."

Mr. Justice Jones declared "that he was not ready to give any present opinion, there having been so much, and some things so materially, said by His Lordship," but he would like to ask the Earl of Danby whether pleading a pardon was not really a confession of guilt. Whereupon Danby quoted a finding of Lord Chief Justice Coke and proved that a Royal pardon was not legally a confession of guilt.

Mr. Justice Dolben

"must confess he thought it one of the hardest cases in England. He was of opinion His Lordship ought not to be detained from having a second plea if the pardon should be over-ruled.

"If he should be put to give any present answer, he must then say, that he thought they could not bail His Lordship; but he thought it might well deserve further consideration."

Justice Raymond said that Danby "had also said some things to which he thought it would not be so easy to answer." "He thought it was a case which might well deserve the consideration of more of the judges betwixt this and the next Term," and "that he must acknowledge he must further consider it, before he would presume to give any opinion at all upon it."

Counsel at the bar then moved that a rule of Court be made to bring His Lordship thither against the first day of next term. The Lord Chief Justice was displeased. He then stood up and said, "My Lord, your Lordship must for the present be content to be remanded," and speaking

to the Lieutenant of the Tower's Officer, told him he must take back his prisoner.[1]

Two subsequent efforts had a similar result. But never did he despair of his cause. By sheer persistence he kept his case constantly in the mind of the King, the Court and the Justices. He approached each of the Justices in turn, to learn their opinion of the legal issue. There is a curious letter among the Hornby Castle Papers which shows that Danby was even prepared to bribe them. It runs as follows:

"To Chas. Bertie from Latimer, Danby's son.

"I was to write on you from my father. . . . My Lord (father) told me he had desired you to try young Jones with the offer of £500, but when you do it, he would have you take notice that this is only a present he offers to him, if he can do him good offices with his father (Justice Jones), and that my Father finds the benefit of them, but my Lord does neither think that the Judge would except (*sic*) of any such proffer, nor would he offer it him because he knows itt improper, but he would be willing to owne the young man's kindnesse, both by this present, and any other way if ever it was in his power." [2]

He constantly reminded the King (through his son and others) of his promises to secure his release. The following is an interesting letter of Latimer (Danby's son) to his father, giving an account of such an interview:

"Latimer to his Father Lord Danby.

"I have according to your commands delivered your letter to the King, which I had the better opportunity to do, My Lord Sunderland, Mr. Hyde and Godolphin being gone to Altrop. Hee read your letter, and when he had done, hee talked to me about it. I told him the most people had very much altered their opinion as to Your Lordship and that now they pitied you as much as they had heretofore rejoiced at your sufferings and that of ye members of Parliament themselves (if it were not those that were your professed enemies) I find none but would be well enough content that you were out of the way,

[1] *State Trials*, Vol. XI.

[2] Hornby Castle Papers. The only direct case of bribery by Danby I have come across.

rather than you should be found where you are at their meeting, and they be obliged to fall upon their old differences of questioning his power to pardon, and the Bishops sitting in Capital Causes; which rights if His Majesty will defend it must certainly break them and so they shall neither be able to try the Popish Lords or do any other businesse. Hee gave me this answer that he had a good while been considering with himselfe, and advising with others of your friends what way he might best and safest both to himselfe and you, for that he was resolved to do it, but that he could not satisfy himselfe of the best way as yett, and therefore must advise with some that were your friends what was to be done in it, but this he was sure of, it would be convenient you should go abroad for some time. He bid a pox take the Chancellor for a cowardly sneaking fellow, for had it not been for him, it had not come to this, and that all the judges were cowards, for else it might have been done before now, but he said he would find out a way to do it with all convenient speed he could and said he should be glad to speak with some of Your Counsell who you could best trust at it.

" I told him further that Your Lordship had reason to think by all those that were your friends that you had discoursed with, that though perhaps the Parliament might at first mention it, yet they thought they would be willing enough after a small time to let it fall, rather than give a stop to all public business. He tould me that whenever a Parliament mett, he did believe it would be the first thing they would meddle with, but that he did not believe they would pass it over so easily, and yet as he must defend his power, he ought to do it the safest way. Hee commanded me to remember him very kindly to Your Lordship, and assure you it should be done as soon as possible and that he would send you a further answer by mee, which I tould him I would stay for." [1]

His petition of 1684 was destined to have a different issue. By this time Chief Justice Pemberton had been superseded by Lord North, who had always supported Danby. Halifax had been his most formidable opponent. It was he who had " hindered the Council (in 1682) from giving leave " to Danby " to visit his wife." [2] He had

[1] Hornby Castle Papers. [2] *Idem.*

also shown extreme animosity when the case of Lord Dunblane and Mrs. Hide was brought before the ecclesiastical Courts; so bitter was he, that "even his own party left him upon a motion he put." [1] But by 1684, Halifax had become reconciled to Danby. Bertie reported on 22 January that "the Marquess of Halifax intended to move the King in favour of all the Lords in the Tower this morning . . . that was done accordingly. . . . He assures me that the King discoursed with my Lord Keeper last night after council in the matter, and that all Your Lordships will be out in very few days. There are great wishes made for your reconciliation with Lord H(alifax)." [2] Reresby says he had assured him "that his enlargement was at hand; that he himself had been his lordship's chief friend, and that the King had made both the Duke and Lord Rochester seemingly set their hands to it." [3] It so happened, too, that Charles himself would gladly have Danby released just then to spite Louis of France, who was "uneasy that Danby, however sunk in the capacity of hurting France, should be released from the Tower." [4] The truth was, the French King was making too certain of Charles's adherence, and was consequently neglecting to pay the subsidies promised by the Secret Treaty of 1681. Danby was Charles's trump card to bring Louis to his senses. "The alteration also among the judges had likewise produced great alterations in the maxims and principles of the Court of Justice." [5] Judge Holloway's was the only dissenting voice. Danby thereupon circularised the Lords, begging them to sign a petition to the King, asking that the opinion of the twelve judges should be taken.

DANBY'S CIRCULAR LETTER TO THE LORDS.[6]

"MY LORD,

"Finding myself to be still without any prospect of relief, and yet the Judges of the King's Bench being not able or not

[1] *Idem.* [2] Lindsey MSS. [3] *Memoirs.* [4] Dalrymple.
[5] Mons. Rapin de Thoyras. [6] Hornby Castle Papers.

willing to shew me any law or reason why a subject should remain in such a condition as I am whilst Magna Charta and other laws for the subjects liberties are pretended to be supported, I am necessitated to make my application to His Majesty to recommend my case to all his 12 judges, who it is to be hoped will better consider their part to do towards the relief of such as can neither yet be discharged nor tried in 3 or 4 years' time, nor by the same reason perhaps their whole lives. For the more effectual procuring of this recommendation I have endeavoured to get the hands of as many peers of the Realm to my assistance as are either willing to show me kindness or are touched with the apprehension how much the too great delay, as also of losing the petition (if there should be but one). I have caused several petitions to be drawn though in the same words. One of which I got signed of such lords as are in or neare the towne and the rest I send to the several habitations of those lords who live in remote parts. My request therefore to Your Lordship is that you would be pleased to honour me with your Lordship's subscription to the petition which my servant has order to show Your Lordship and to which I have found a very willing concurrence already by many of the Lords about the town as well as such as not personally so kind to me as I could wish, as others who are more favourable, most agreeing that the example may hereafter come to be of fatal consequence to themselves or their posterities, and that there can be no just object against it, when the thing desired is but to be bailed to appear before the Lords in Parliament whenever they shall sit, there to answer whatsoever shall be objected against me. I hope the justice of the thing will plead an excuse for my giving Your Lordships this trouble, but however the favour will be such as must make me always acknowledge myselfe to be

" My Lord,

" Your Lordships most obliged Servant."

### Danby's Petition to King signed by Lords.[1]

" Wee the peeres whose names are hereunto subscribed considering not only the great hardship of the Earl of Danby's case, but being highly sensible of the dangerous precedent it may be hereafter to the rest of Your Majesty's subjects, if any

[1] Hornby Castle Papers.

man can be made incapable of being bailed, where he can have no prospect of other deliverance and conceiving it not to be in the intention of the House of Lords (in the making of the said order concerning impeachments) that ever it should produce a consequence so injurious to your Majesty's prerogative, so mischievous to the liberty of all your subjects, do humbly join with the said Earl in his petition and pray your Majesty to grant the same with an effectual recommendation whereof to the due consideration of all your judges."

The Petition was granted, the opinion of twelve judges was taken, and on 12 February 1684 their verdict was given. Danby at last secured his release on bail on his own recognisance of £20,000 and on those of Charles, Duke of Somerset, Christopher, Duke of Albemarle, Aubrey, Earl of Oxford, and Philip, Earl of Chesterfield, for £5,000 each.[1] He had also to undertake to present himself to the House of Lords on the first day of the next opening of Parliament.[2] Thus, at last Danby left the Tower, a man still active and mentally alert, but embittered by his experiences, and especially by the defection of his Royal master.

Harley reported to the Duke of Portland that "the Earl of Danby waited upon His Majesty and His Royal Highness, and was well received, being complimented by most of the nobility, His Majesty approving of his intention to retire into the country some time for his health."[3]

He "came the same day to kiss his Majesty's hand in the bedchamber. . . . The King received him very kindly, and when the Earl complained of his long imprisonment, his Majesty told him he knew it was against his consent, which his Lordship thankfully acknowledged; but they had no manner of private discourse together."[4] Nor could he get any further, despite dining with the King 28 February; for nearly six months later he reported that "the King is, just as formerly, very kind in words.

[1] *State Trials*, Vol. XI. [2] Journals of Lords.
[3] Portland MSS. [4] Reresby, *Memoirs*.

but nothing more, and the Duke very civil in appearance." [1]

In accordance with the conditions of his release, Danby presented himself before Parliament 19 May 1685, and handed in the following petition which

" Most humbly showeth,

" That your petitioner hath been detained a prisoner almost five years in the Tower of London, vidilicet, from the Sixteenth of April 1679 to the Twelfth of February 1684, upon an Impeachment brought against your Petitioner, on bare suggestion of crimes, without any affidavit whatsoever made against your Petitioner. That your petitioner did often during that time endeavour to have procured bail, to appear and answer before your Lordships to any crime which should be objected against him; but could never obtain the same till Feb. 12, 1684, at which time he was bailed to appear before your Lordships the first day of the sitting of the next Parliament, as may appear by the recognisances which (as your petitioner is informed) is now brought up to your Lordships by the Lord Chief Justice of the King's Bench.

" That in pursuance of the said Recognisance, your petitioner doth now present himself before your Lordships.

" Humbly praying that your Lordships will be pleased to take into your consideration the case of your petitioner (who has the honour to be one of the members of your House) and to grant him a speedy relief against his long and tedious imprisonment, either by trial or by such other ways as your Lordships shall judge most convenient." [2]

Danby was ordered to attend the House until further orders. His petition, in company with those of the other Lords imprisoned in the Tower, was immediately dealt with, and on 22 May 1685 the order for the continuation of impeachments from Parliament to Parliament was formally reversed, the following lords only dissenting: John, Earl of Radnor, Anglesey, Clare, Stamford. They stated, however, that their objection was on judicial not personal grounds, as they considered this to be a " precedent

[1] Danby to wife, 21 July 1684. Lindsey MSS. [2] Journals of Lords.

for dangerous variations." [1] In accordance with this order Danby was finally acquitted, and on the next day, 23 May, he took the Oath of Allegiance, and resumed his long vacated seat in Parliament.

It was constantly asserted by Danby's contemporaries—friend and foe alike—that Charles found him more useful in the Tower than in office. This is a curious statement, and one about which it is difficult to ascertain the truth, because owing to the peculiar circumstances of the time, the King was anxious to conceal his connection with his late Treasurer, and took great care to cover up his tracks. Only once have I found any record of an interview between the two, and that is in a casual reference by Lord Shaftesbury.[2] Much, however, can be learnt from a study of the letters and diaries of the time in conjunction with the political history of that day.

It was evident to Danby some months before his final overthrow that his own autocratic "premiership" was destined to fall, and that some other form of government more pleasing to Parliament must be substituted. He did not as yet anticipate his own political destruction, and was prepared to alter government organisation in compliance with the growing demand of the Commons. Under the circumstances, his energies were directed to securing a paramount influence which would ensure a continuance of his own good relations with Holland—and in particular he was anxious to secure as Secretary of State his own relative by marriage, Sir William Temple, who was at the moment Ambassador at The Hague.[3] William of Orange entirely approved of this appointment. Unfortunately events moved rather too quickly for Danby, and he was attacked in Parliament before his plans matured. His influence, however, was still great, and when he resigned the Treasurership, he was allowed to nominate the new Commissioners.[4] After considerable trouble also,

[1] Journals of Lords. [2] Ormonde MSS.
[3] Danby to William of Orange. [4] Danby Correspondence.

a seat was found for Temple in the Commons,[1] and at last, on 11 February 1678, Danby was able to report to Lady Temple that her husband had been appointed Secretary of State.[2] This had not been an easy task, for before Sir William would accept the post, he had insisted on the resignation of the co-secretary, Sir Joseph Williamson. This had all been accomplished by Danby while Parliament was violently attacking him, and soon afterwards he was committed to the Tower.

But he now felt satisfied that many of his own plans would be carried out in the new Council. Temple's views undoubtedly outran his own, especially on the point of parliamentary government, but the conflict had not come yet. Many of his enemies, too, had entered the Government, but their own views were so various and so conflicting that they did not prove a serious check to Danby's power. Shaftesbury soon began to call Halifax "the great betrayer of his party," [3] and was ready to support Danby if thereby the power of his enemy might be diminished.[4] He began openly to say that "'twere much better one late Treasurer than three." [5] Sir William Temple and Secretary Coventry frequently visited Danby in the Tower, and though there is no actual proof that affairs of State were discussed, considering that both these men were his own nominees, it is not improbable that such was the case. There is, however, an entry in the Hornby Castle Papers, 1682, showing that Danby sent advice to the Treasury about Chimney Money. Charles only went once to the Tower himself, but messages were frequently conveyed for him by the Earl of Bathe and others. There is considerable testimony at this time to the fact that the prisoner in the Tower was influencing the actions of the Government. It was mainly owing to him that the Duke of York was banished February 1679,[6] and was kept abroad during the whole of that year. In

[1] Montague Correspondence. [2] Lindsey MSS. [3] Ormonde MSS.
[4] *Idem.* [5] *Idem.* [6] York's own letter.

May 1679 York wrote to Colonel Legge that everybody abroad was astonished at Danby's influence, for "here (*i.e.* The Hague) we do not know what to make of the Earl of Danby's coming in, and feare it may yet put things in more disorder." [1] Two months later he was impatiently waiting for the return of Lord Peterborrow, "when I shall heare what he will say to me from Lord Danby" [1]—an unconscious tribute to the power of his enemy. When the King was ill in September 1679 and York was hurriedly recalled, again it was due to Danby that on his recovery, both York and Monmouth were ordered to leave the country.[2] But his influence was not limited to York's banishment, for to him is attributed a far more important decision, and one which brought in its wake the resignation of the noble-minded Temple.

The latter was a strong supporter of parliamentary privilege, and honestly desired to rule with a free parliament. The House had been called together for 17 October 1679, but it met only to be immediately prorogued till 20 January 1680. On six successive occasions during 1680 the same thing happened, and finally, on 10 January 1681, Parliament was dissolved. It was commonly rumoured that "My Lord Danby had a great finger in this prorogation, and that much of it hath been steered by his friends, and compassed in his behalfe." [3] The Duke of York complained to Barillon that "il me fit entendre que quelques uns Seigneurs qui sont prisonniers à la Tour avaient été dans le sécret de tout ce qui avait été projetté." [4] An anonymous writer to Ormonde says that the King announced at the Council that he was going to dissolve Parliament, whereupon he was strenuously opposed by Shaftesbury, Halifax, Essex and Sir Robert Carr. The writer goes on to say that Danby is commonly regarded as being the author of it.[5]

[1] Dartmouth MSS. [2] Ormonde MSS., N.S., Vol. IV.
[3] *Idem.* [4] Letter, York to Barillon, 30 Oct. 1680.
[5] Ormonde MSS., N.S., Vol. V.

The sequel of the dissolution is interesting. Early in 1681 Temple resigned his office and was succeeded by Lord Conway as Secretary of State.[1] It is significant to note that the latter had shown himself to be a staunch supporter of Danby, and was connected with him by marriage. At the same time Shaftesbury was dismissed the Council, while Essex was now viewed with great suspicion. Almost immediately afterwards a new Parliament was summoned at Oxford, 21 March 1681. "Essex and several others petitioned against it"[2]—but in vain; he was then dismissed from office. Halifax we know strongly disapproved of this new move. Danby, on the other hand, eagerly welcomed it; he felt confident that a new Parliament would be favourable to the King and himself, and determined to secure his release on parliamentary authority.[3] As his friends in Council also earnestly supported the proposal, it is not impossible to suppose that it may have emanated from Danby himself, though we have no direct proof of it. At any rate, it received his strong support.

Unfortunately, he overreached himself. The triumph of his friends was apparent to all, and the Commons at the first suggestion of bailing Danby, determined to prevent such a catastrophe, and immediately demanded that he should be brought to trial on the old charges. The opposition was strengthened by Shaftesbury and Halifax (both outraged by the summoning of Parliament to Oxford), and they had the secret support of the French King, who feared the return of Danby to power.[4] Charles, to save his friends from the angry Commons, first prorogued and finally dissolved Parliament.

The dissolution of the Oxford Parliament was fatal to Danby's hopes. The King, deprived of all prospect of a parliamentary grant, again threw himself upon the generosity of Louis of France, with whom he entered into a secret

[1] *Life of James II* (Clarke). [2] *Idem.* [3] Letter, Danby to son. [4] Letter, Barillon to Duke of York.

treaty, whereby he received a large annual subsidy on condition that the Houses were not reassembled. From 1681 to 1684 the French interest was paramount.[1] This interest was inimical to Danby and favourable to the Duke of York. The latter was recalled to England and became to all intents and purposes his brother's Prime Minister. During this time Charles had no political use for Danby. "He promised fine words and nothing more."[2] He neglected even to pay the prisoner's board wages.[3] The truth was, while receiving French money, Charles dared not favour Danby. But the latter was not the man to be quiescent under calamity. In his hatred of French influence, he began to draw nearer to his erstwhile enemy Halifax, and early in 1684 was completely reconciled to him.[4] The judges too, disgusted with the illegal and arbitrary cancelling of city charters, began to look more favourably upon Danby.[5] The French, arrogant in their day of power, supplied the necessary impetus to secure his release. Louis at this time, thinking that Charles had now no power to resist him, contemptuously refused to pay the promised subsidy, and forgot to subsidise the French mistress, the Duchess of Portsmouth.[6] Danby now made friends with the latter,[7] who influenced the King to show Louis that he still had a will of his own, and was ready to release Danby in spite of French opposition. All parties concerned being, for the moment, agreed, Danby at last secured his release on bail through the ordinary law courts.

The French at once saw the mistake they had made and renewed their subsidies to Charles,[8] and once again baulked Danby in his desire for office. He was, as he said, kindly received at Court but nothing more, and no hopes were held out of service under the Crown.[9] He therefore

[1] Dalrymple.
[2] Letter, Danby to son.
[3] Petition, Danby to King.
[4] Reresby, *Memoirs*.
[5] Not knowing that Danby had advised it.
[6] Dalrymple.
[7] Letter, Danby to son.
[8] Dalrymple.
[9] Lindsey MSS.

withdrew himself from the view of the public and went North to Yorkshire, there to await events.[1] He still retained several minor provincial offices and performed his duties quietly and unostentatiously. As opportunity occurred he steadily and consistently supported the Earl of Halifax.[2] During this time he was able to render a service to the city of Leeds. In November 1684 the city was compelled to surrender its charter to the King. In their anxiety, they appealed through Mr. Headly, their Attorney, to Danby for support. He gave it generously and exhorted his son, Viscount Latimer, who was in London, to do his best, and told him to "say to the King, when Mr. Headly presents his petition, that you conceive it would be not proper to let the petition be referred to the Lord Chief Justice."[3] The latter was a friend of Danby's and could be relied on for help in curtailing the usual procedure.

The even tenor of his way was soon interrupted by the death of Charles II, 6/16 February 1685. The Duke of York was no friend of Danby's since his banishment, and many were the anxious thoughts occasioned by his accession. He even talked of going abroad to Spain to escape the expected deluge.[4] But James had other plans on hand and was not desirous of wantonly provoking a contest. On 13 May 1685, Danby was able to report to his wife that he found "the King and Ministers outwardly very civil, and there will be no danger of my going to an old quarter."[5]

James called his first Parliament 19 May 1685, at which, in accordance with the terms of his bail, Danby presented himself. His association with Halifax, and his well-known Anglican sympathies, contrasting favourably as they did with the Roman Catholicism of the King, brought him once again into favour with Parliament. Not only did they reverse their former sentence, but he was immediately placed on most of the Committees of the House of Lords.[6]

[1] Reresby, *Memoirs*. [2] Rutland MSS. [3] Lindsey MSS.
[4] Rutland MSS., Vol. II. [5] Lindsey MSS. [6] Journals of Lords.

They even went so far in June of that year as to compel a certain Mr. Cox, who had printed a scurrilous libel against Danby, "to acknowledge his offence publicly and beg pardon of the said Earl of Danby." [1] He was indefatigable in his attendance at the House, and always supported the Parliament in any contest against the Crown. On 2 July 1685, Parliament was prorogued. Soon afterwards, Halifax was dismissed from the Council, and Danby was now ranged in open opposition to James II. He was genuinely alarmed at James's Church policy and strenuously opposed to it. Despairing of all other means of preventing an open alliance with Rome, he was soon deeply engaged in the schemes of William of Orange. Thus after a period of nearly ten years of political stagnation, Danby again entered the political arena, and took one of the leading parts in the momentous events of 1688.

[1] *Idem.*

# THE RELATIONS OF WILLIAM III WITH THE SWISS PROTESTANTS, 1689–1697

By L. A. Robertson, M.A., B.Litt., F.R.Hist.S.

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Diplomatic relations between England and Switzerland have their beginning in the second decade of the sixteenth century. Henry VIII, chagrined at the success of the French at Marignano, sent Richard Pace as his ambassador to the Cantons, with instructions to secure the participation of the Swiss in an invasion of the Milanese to be undertaken by Imperialists and Swiss mercenaries in the pay of England. Pace had little difficulty in recruiting some 12,000 men from the V Cantons of Uri, Schwyz, Zürich, Basel and Schaffhausen, and 2,000 from the Grisons, and in March 1516 a Swiss-Imperial army descended into the Lombard plain under the joint leadership of the Emperor Maximilian and Galeazzo Visconti. The expedition proved a dismal failure, and all efforts made by Pace to induce the Swiss to take part in a second invasion of Italy failed signally. The conclusion of peace between France and the XIII Cantons on 29 November 1516, deprived the English mission of its essential purpose—the utilisation of anti-French sentiment in Switzerland—and in the autumn of 1517 Pace was recalled. The diplomatic intercourse between England and Switzerland in the years 1515–1517 was occasioned purely by the political exigencies of the moment and was founded upon no permanent basis of common interest, political or religious. Hence the mission of Pace has little significance for the development of Anglo-Swiss relations in later centuries.

It was in the decades immediately succeeding the Reformation that an especially close friendship arose between Reformers in England and in the Cantons, and it was in that period that the relations of England and Switzerland really had their origin. Though the aims of English diplomatic missions to the Cantons in the seventeenth century were partly political, yet the fundamental element in Anglo-Swiss relations continued to be the common Protestantism of the two countries. The friendship which originated in the sixteenth century was based exclusively on spiritual and intellectual affinities and was sincere enough to be independent of material considerations. The influence of Swiss theological conceptions upon the religious development of England was indeed profound and far-reaching. As early as 1536 English Reformers began to make their way to Switzerland to acquire a knowledge of the new doctrines at their source, and in the reign of Edward VI whatever religious influences came from abroad had their origin in Zürich. During the Catholic reaction of the succeeding reign, Protestant Switzerland became the place of refuge for many English Reformers. Some settled in Zürich, removing later to Aarau, and on their return to England maintained a regular correspondence with Bullinger, appealing to him for advice on innumerable problems of doctrine and Church government. Of still greater importance was the colony of English exiles at Geneva. It was in that citadel of Protestantism that the famous Genevan Bible was published in 1560, and it was after the model of Calvinistic institutions that John Knox established the Reformed Church in Scotland. As the sixteenth century drew to a close the connection with Geneva came to have a significance of the greatest moment for the development of the religious and political life of England. It was from Geneva that the English Puritan movement derived its original impetus. Englishmen who had spent a period of exile there, or who had been students in the Academy of Calvin, carried back to England an unbounded

admiration for the ecclesiastical discipline of Geneva and an ineradicable conviction that Presbyterianism was the ideal Church polity. Geneva was the source both of English Puritanism and of Scottish Presbyterianism.

Early in the seventeenth century diplomatic relations between England and Switzerland were resumed after an interval of over a century. In 1625 and 1626 Sir Isaac Wake appeared in Coire, Zürich and Bern with the object of demonstrating his master's interest in the question of the Valtelline, but it was not till 1629 that Charles I sent a permanent resident to Switzerland in the person of Sir Oliver Fleming, "le Suisse britanique," as he delighted to call himself. But although Fleming remained thirteen or fourteen years in the Cantons, Anglo-Swiss relations never got beyond polite professions of friendship and of religious sympathy.

The events which heralded the outbreak of the English Civil War awakened the most profound concern in Protestant Switzerland, and the Swiss theologians made a vain appeal to the contending factions to seek a peaceful solution of their differences. The Swiss were unquestionably biased in favour of the Presbyterians, and viewed the rise of the Independents to predominance with undisguised hostility. The execution of Charles I completed the alienation of the Swiss Protestants, and for several years intercourse between the two countries ceased almost entirely.

But on the outbreak of the Anglo-Dutch War the Swiss realised that they could no longer afford to ignore the English Republic. Hostilities between England and Holland made the lesser Protestant states all the more liable to be overwhelmed by the Catholic powers, and in their own interest the Reformed Swiss resolved to offer their mediation to the belligerents. As the forerunner of a formal embassy, J. J. Stockar, town-clerk of Schaffhausen, was, in February 1653, sent to England, where he made known to Parliament the desire of the Cantons to act as mediators. Stockar made a favourable impression in England, but his offer of

mediation was not officially accepted, and the project of a formal Swiss embassy was abandoned. Nevertheless, in his private capacity, Stockar was a valuable intermediary throughout the negotiations for peace between the two Republics.

With the object of forming a basis for a comprehensive league of all the Protestant states of Europe, Cromwell designed to bring England and Switzerland into especially close relations, both politically and ecclesiastically. Accordingly, in April 1654, he sent John Pell, the distinguished Cambridge mathematician, and John Dury, the famous advocate of Church union, upon a joint mission to the Cantons. The Swiss received the proposals of Cromwell's agents with little enthusiasm. Dury's projects for a dogmatic union of Lutherans, Zwinglians and Calvinists appeared to them chimerical, while fear of France and distrust of England's revolutionary government made them unwilling to open negotiations with Pell for an alliance. Meanwhile the exigencies of the political situation in Europe had compelled Cromwell to abandon his exclusively Protestant foreign policy and to seek the friendship of France. As the projected Anglo-Swiss alliance was to have been primarily directed against France, Cromwell's *rapprochement* with that power obviously made treaty relations with the Swiss of less importance to him and he therefore allowed the plan of a close Anglo-Swiss alliance to drop into the background.

When in 1655 the Duke of Savoy expelled the Vaudois from their valleys an opportunity seemed to present itself for active co-operation between England and Reformed Switzerland for the defence of the Protestant interest.[1] In the opinion of Cromwell the most effective method of

[1] I have not been able in this Paper to touch upon the subject of the Vaudois clergy and the historical pension paid by the English Treasury until recent times. This subject has been dealt with by Dr. W. A. Shaw in an article entitled "The English Government and the Relief of Protestant Refugees" in the *English Historical Review*, Vol. IX (1894), pp. 662–80 and especially pp. 675–80.

dealing with the situation was an immediate and vigorous armed intervention on the part of the Protestant Cantons. But the Swiss refused to open war on Savoy, contending that such action would inevitably draw upon them the hostility of the Catholic Cantons, who were the allies of the Duke. Cromwell's next plan was the organisation of a combined diplomatic intervention of England, Holland, France and the Protestant Cantons. But before the ambassadors of the Maritime Powers could reach the territories of Charles-Emmanuel the French had coerced the Swiss embassy into acquiescence in the premature and unsatisfactory peace of Pignerolo. Cromwell did not conceal his disapproval of the conduct of the Swiss, and there ensued a coolness between the two countries until the outbreak of war between the two religious parties in Switzerland early in 1656 roused Englishmen to a renewal of interest in the fortunes of their co-religionists. Cromwell was on the point of sending a sum of £20,000 to the Protestant Cantons as the first instalment of a subsidy when news reached England of the conclusion of peace. Thereafter there was little need for the presence of an English ambassador in Switzerland and Pell was recalled in May 1658. Dury had already left Switzerland in 1655. No other diplomatic agent from England was accredited to the Cantons till 1689.

The influence of France in Switzerland was incomparably greater than that of any other European power. The basis of the Franco-Swiss relationship was the alliance of 1521, renewed at intervals, in particular in 1663. By means of that alliance the Swiss were brought into almost complete economic dependence upon France. Under the terms of the treaty itself they obtained substantial advantages, such as the payment of annual pensions to the cantonal treasuries and the absorption of their surplus population in the French army. But they derived even greater profit from the so-called "fruits of the alliance," which were certain advantages, financial and commercial, regarded by the Swiss as

the necessary complement of the benefits specifically guaranteed by the formal treaty. Most important of the "fruits of the alliance" were the "secret pensions" and the "gratifications": over 200,000 livres were paid to individual adherents of France in the Cantons every year. While the regular payment of pensions made Switzerland financially dependent on France, the necessity for obtaining customs privileges reduced the Swiss to a similar state of dependence in the sphere of industry and commerce. France was the most convenient market for the manufactures of Zürich, St. Gall and Basel and for the cheese of Fribourg, and it was essential for the prosperity of these industries that the Swiss should be granted favourable customs tariffs. Other factors which bound the Cantons closely to France were the advantageous conditions under which the Swiss obtained corn and salt and the large orders which they received for cavalry remounts. So indispensable was the French connection for the Swiss that negotiations with other powers were viewed almost solely in relation to the one dominating interest—the French alliance.

While it is true as a general statement that the Swiss were dependent economically upon France, a distinction must be drawn between the degrees of dependence of Catholics and Protestants respectively. The material advantages offered by the French alliance were absolutely essential to the well-being of the Catholic Cantons, especially those of central Switzerland. On the other hand, the Protestant Cantons, especially Zürich, Basel, Schaffhausen and the town of St. Gall, were not only more capable of providing their own necessaries, but had achieved a certain measure of success in opening up trade relations with Germany. Consequently, the Protestant Cantons were much less dependent upon France than the Catholic, and were at the same time more alive to the dangers of a too ready acquiescence in the ascendancy of that power in the Confederation.

It was this comparative independence of France which

permitted the Protestant Cantons to show their resentment of French assumptions of a virtual overlordship. Ever since the signature of the alliance of 1663 French policy had been directed to the reduction of the Confederation to the condition of a vassal state. Relying on the efficacy of his system of bribing trusted adherents among the Swiss, Louis XIV proceeded to a flagrant violation of many of the most important provisions of the treaty. In particular, he deprived the mercenaries in his service of several of their most cherished privileges and consistently evaded Swiss claims for arrears of pay and pensions. These infringements of the treaty affected all the Swiss in varying degrees, but while the Catholic Cantons submitted sullenly, the Protestants were stimulated to active resentment. The Protestant Cantons had their own particular grievances against the French monarchy. Their religious susceptibilities had been offended, first, by the use of 25,000 Swiss mercenaries for offensive service against the Dutch in 1672, and second, by the Revocation of the Edict of Nantes. To indignation against so cruel a persecutor of their co-religionists was added vexation at the expenses in which they were involved by the maintenance, temporary or permanent, of over 60,000 French and Vaudois exiles. Another potent cause of hatred of France was the annexation, in 1674, by Louis XIV, of Franche-Comté, a province which, in the hands of Spain, had been a secure barrier against possible French aggression. All Protestant Switzerland looked with apprehension upon the advance of the French frontier to the line of the Jura. There were three points on the Franco-Swiss frontier atwhich Switzerland might be easily invaded—Basel, Neuchâtel and Geneva—and in each case the Swiss had justifiable cause for alarm. The guns of the fortress which Louis XIV had erected at Hüningen commanded the town of Basel, the Principality of Neuchâtel was in danger of falling into the hands of Prince Conti by inheritance, and there was abundant evidence that Louis XIV had designs upon Geneva similar to those which he had carried out so

successfully in the case of Strasburg. Distrust of Louis XIV's policy of territorial expansion, and fear for the integrity of their western frontier, constituted the second principal cause of the alienation of the Protestant Cantons from France. Other reasons particularly affecting the Swiss Protestants were the imposition of customs dues contrary to the treaty of 1663, and the conspicuous failure of Louis XIV to discharge his enormous debts to the Cantons of Bern and Zürich, his principal creditors in Switzerland. Finally, in 1689, the insulting treatment meted out by the French monarch to a federal embassy sent to Paris to negotiate in the matter of the Genevese claim to the tithes of Gex, came as a culmination to the series of injuries which Louis XIV had been inflicting upon the Protestant Cantons for decades. Resentment at the policy of France drove the Swiss to seek closer relations with the enemies of their traditional ally.

The determination of the members of the European coalition of 1689 to reduce France to the territorial limits defined by the treaties of Westphalia and the Pyrenees encouraged the Swiss to hope that at the conclusion of the war the allies might be induced to insert in the treaty of peace such conditions as would ensure the security of Confederate territory from French aggression. These conditions were : the dismantlement of Hüningen, the restoration of Franche-Comté to Spain, and international recognition of Geneva and Neuchâtel as integral parts of the Corpus Helveticum. For the fulfilment of their desires the Swiss Protestants looked neither to the Emperor nor to Charles II but solely to William III. In the opinion of the Swiss Protestants William III was the ideal champion of Helvetic liberty. He appealed to them both as the defender of the Protestant interest and as the resolute opponent of the French hegemony in Europe. It was true that the lands he ruled were far distant from Switzerland, but his very remoteness seemed a guarantee against the intrusion of interested motives in his relations with the Cantons. It

was in the belief that William III would play the rôle of disinterested protector of Swiss independence that the Protestant Cantons welcomed the project of an English diplomatic mission to Switzerland at the opening of the Palatine War.

But while William was as anxious as the Swiss to destroy the fortifications at Hüningen, to restore Franche-Comté to Spain, and to maintain the independence of Geneva and Neuchâtel, the method he proposed to adopt to attain these ends differed fundamentally from that which the Swiss deemed expedient. The Cantons were willing to assist the allies to the best of their ability, but not to the extent of entering the war as principals. William, on the other hand, designed that the Swiss should assist actively in the struggle for rectification of the frontiers, and should undertake service in any theatre of war where their presence would contribute to the reduction of the military power of France. It was a favourite idea of William's to invade southern France from the east and effect a junction with the disaffected elements of Dauphiné and Languedoc. As a base for such an incursion Savoy would have served excellently, but Victor-Amadeus still adhered to his connection with Louis XIV, and until he could be induced to change sides, Switzerland was the only convenient base from which the operations could be conducted. Hence it was eminently desirable to send a mission to the Cantons to secure either an offensive alliance with the Swiss or at least to obtain a promise of their connivance at the passage of an allied army through their territory.[1] What made an alliance with the Swiss of special value for the coalition was the fact that the French, relying upon the neutrality hitherto maintained by the Swiss in all general wars, had neglected to fortify the frontier from Basel to Geneva. Elsewhere the French frontier was practically impregnable. Only at some point on the line of the Franco-Swiss frontier had the allies any

[1] Coxe's instructions. All Souls College Library, Oxford. MS. 264, f. 394.

hope of breaking through into French territory. Three points on this line attracted the attention of the coalition. On the extreme north, the pass of Augst opened a way into France through the territory of Basel. Further south, Franche-Comté could be entered easily by way of Neuchâtel and the appearance of an allied force would almost certainly encourage the people to a general revolt against French rule. Lastly, from Geneva it was comparatively easy to penetrate to Lyon.

But by 1689 neutrality had become established as a fixed principle governing the relations of the Cantons with all foreign powers. It is true that the Swiss considered it no violation of their neutrality to hire their mercenaries to foreign states, but the restriction of the mercenaries to defensive service only, and the avoidance of all alliances and diplomatic entanglements whereby the Cantons might be involved in a general war as principals, were canons to which the Swiss made it their invariable practice to conform. William's aims were directly counter to the requirements of neutrality as conceived by the Swiss statesmen of the late seventeenth century. But the discrepancy between English and Swiss policy was not at once apparent. The first object of English diplomacy was to be the signature of an alliance and of a military capitulation,[1] providing for the levy of 4,000 men for service in William's three kingdoms (i.e. for defensive service).[2] It was apparently William's intention, once he secured control of these mercenaries, to ignore the restriction to defensive service and to employ the troops wherever he desired. The use of the troops offensively against France would then be deemed a transgression[3],

[1] A "capitulation" was a contract between the Cantons and a foreign prince, regulating the conditions of service of Swiss mercenaries in the employment of that prince.

[2] Coxe's instructions. All Souls College Library, Oxford. MS. 264, f. 394.

[3] The term "transgression" denoted the employment of Swiss mercenaries for offensive service, contrary to the capitulations, which invariably provided that the mercenaries should be employed for defensive service only.

and there would ensue a state of tension between France and the Protestant Cantons. English diplomacy would then be directed to the precipitation of hostilities between the Swiss and Louis XIV, thus involving the Cantons in the war as principals. William's ultimate object was no less than the complete detachment of the Protestant Cantons (and of the Catholics as well, if it could be managed) from their connection with France and their adhesion to the Grand Alliance.

Thomas Coxe, the diplomatist selected by William for the post in Switzerland, arrived at Zürich 28 November 1689. He was accredited to all XIII Cantons, as his official designation, "Envoye-Extraordinary to the Confederate States of the Swiss Cantons," clearly indicates. But as it was considered improbable that he would be received by the Catholic Cantons, he was supplied with separate credentials for the Protestant Cantons only. Coxe was not long in discovering that the Catholic Cantons were too afraid of offending France to risk acknowledging William, and Coxe therefore refrained from applying to the Confederation for a "general reception." [1]

The English ambassador opened his negotiations with Reformed Switzerland on 13/23 January 1690, when he presented to the Small Council of Zürich his credentials to the Protestant Cantons [2] and requested the convocation of a Diet. At this Diet, which met on 21/31 January, Coxe proposed the conclusion of a defensive alliance between William III and the Protestant Cantons and a levy of four regiments of a thousand men each, exclusive of officers, for the King's service in his domains, or of two regiments of lifeguards.[3] The deputies informed Coxe that they would

[1] Coxe to —— 5/15 January 1690; Coxe to —— 9/19 January 1689/1690; Coxe to Shrewsbury 13/23 January 1690; R.O. State Papers Foreign, Switzerland, 7.

[2] Précis de la Négotiation de Mr. Coxe en Suisse. Brit. Mus. Add. MS. 38013, f. 9.

[3] *Amtliche Sammlung der ältern Eidgenössischen Abschiede*, VI, 2, i. pp. 317–18 (Einsiedeln, 1882).

give their answer to his proposals at a second Diet to be held at Zürich in three weeks.

On 24 February/6 March the deputies reassembled and signified their readiness to continue the negotiations on condition that Coxe would agree to their demand for a guarantee of security against invasion by France. The Swiss were convinced that the inevitable result of the signature of an alliance with England would be a state of tension between France and Protestant Switzerland, if not of actual war, and to provide against a sudden invasion the Swiss deemed it essential that William should undertake certain definite obligations for the protection of the Cantons. As Coxe and the deputies could not at once agree on this question, the latter returned to their respective Cantons for further instructions.[1] On 17/27 March the Diet reopened at Zürich and this time the negotiations culminated in the signature of the first draft of a treaty of alliance, the so-called "Suisse-Project,"[2] on 10 April 1690.

Articles I and III of the "Suisse-Project" emphasised the purely defensive character of the alliance. According to Article I, the treaty was a defensive one between King William on the one part, and the Cantons of Zürich, Bern and Glarus[3] on the other, for the peace, defence and conservation of the Person and Honour of William and of his Kingdoms, England, Scotland and Ireland, and of the lands, cities, territories, rights, seigneuries and subjects of the three Cantons. The hereditary union with the House of Austria and the alliance and perpetual peace with France were specifically reserved. According to Article III, the Cantons of Zürich, Bern and Glarus, by virtue of their

[1] *Amtliche Sammlung der ältern Eidgenössischen Abschiede*, VI, 2, i. p. 322.

[2] "Project d'un Traitté d'Union entre Sa Majesté Britanique et Les Cantons Evangeliques." Short title, "Suisse-Project." Brit. Mus. Add. MS. 38013, ff. 35–49.

[3] Basel, Schaffhausen and Appenzell, according to the terms of their original alliances with the other Cantons composing the entire Confederation, were debarred from making new alliances on their own account, and could not therefore enter into an alliance with England.

union with England and the Cantons of Schaffhausen, Appenzell Ausser-Rhoden and the town of St. Gall [1] out of a feeling of respect for William, consented to the levy of 4,000 troops for the guard of his Royal Person and for the defence of his three Kingdoms, England, Scotland, and Ireland.

A series of articles defined the guarantees to be given by William for the security of the Cantons against invasion. Article XXVI (deposit of 2,000,000 francs tournois with the Protestant Cantons), Article XXVII (inclusion of the Confederation in the general peace with express mention of all XIII Cantons and of the "Allied States," *i.e.* Geneva, Neuchâtel, etc.), Article XXVIII (diversions to be made by William elsewhere if the Protestant Cantons were attacked), Article XXIX (William to intercede for the establishment of unrestricted importation of corn and other commodities from the Empire), Article XXXII (if any Canton should be attacked, William was to conclude no peace till the enemies of that Canton had paid compensation for the damage inflicted).

The document was both a treaty of alliance and a military capitulation. That part of the instrument which constituted the capitulation consisted of sixteen Articles (VI, VIII, IX, X, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX, XXI, XXIII, XXIV) defining the conditions of service in the English levies and providing for the maintenance of certain special privileges claimed by Swiss mercenaries in other foreign services.

But while Coxe was awaiting impatiently the return of the King's messenger with a counter-project, the adhesion of Victor-Amadeus to the Grand Alliance gave a new significance to the negotiations with the Protestant Cantons.

The French frontier over against Savoy being inadequately fortified, an invasion of Dauphiné from Savoy as

[1] It was quite permissible for Schaffhausen, Appenzell Ausser-Rhoden and the town of St. Gall to take part in levies made by foreign powers, although they were not at liberty to enter into new alliances with such.

base, would be comparatively easy to carry out.[1] But there was a very real danger that the allies would be forestalled in their design. Victor-Amadeus could spare no troops from Piedmont for the defence of Savoy, and unless he could obtain, without delay, strong reinforcements from the allies, the French were almost certain to overrun the whole northern section of the ducal territories.[2] Unfortunately, the allies were too fully occupied in other theatres of war to be able to send immediate assistance. The Duke's only hope of holding Savoy was to obtain a defensive alliance with the Swiss. He was already allied to the Catholic Cantons, but he could not invoke their aid without drawing on himself the hostility of the Protestants. To set at rest the suspicions of the Protestants it was necessary to seek an alliance with them. But the project of a treaty between the Duke and the Protestant Cantons found little favour in Switzerland. The Catholics were hostile, the Protestants indifferent. Of all the Cantons, Bern alone had a vital interest in keeping the French at a distance from Geneva and Vaud, and it was with that Canton that Victor-Amadeus hoped to conclude a treaty by which the Bernese would undertake to garrison Savoy with a strong body of their own troops.

Meanwhile Victor-Amadeus had entered upon negotiations for an alliance with William III, from whom he desired to obtain subsidies. But instead of financing the Duke, William designed to place at his disposal the 4,000 men to be raised in Switzerland by virtue of the alliance which he expected to conclude with the Protestant Cantons. William intended to ignore the Swiss prohibition of offensive service, and to employ the mercenaries directly against France in Savoy. The English assistance to the Duke was to take the form, not of subsidies, but of military support, and the necessary preliminary was the conclusion of an alliance

[1] Monsr. Gautier's Project. R.O. State Papers Foreign, Switzerland, 7.
[2] Coxe to Shrewsbury, 2 June 1690. R.O. State Papers Foreign, Switzerland, 7.

and capitulation between William III and the Protestant Cantons.[1]

The determination of the Protestant Cantons not to be involved in the war as principals caused them to reject the proposals of alliance made to them by Victor-Amadeus in June and July 1690, and Savoy remained exposed to invasion. The French did not fail to make the best of their opportunities, and by the end of August they were masters of practically all Savoy. Meanwhile on 18 August Catinat had inflicted a severe defeat on Victor-Amadeus himself at Staffarda. In a letter to Coxe of 26 August,[2] Nottingham referred to the recent disasters to the ducal arms and directed Coxe to assure Victor-Amadeus that the allies were resolved to come to his assistance. In particular, Coxe was to inform the Duke that the 4,000 Swiss mercenaries whom William designed to raise in the Cantons were to be employed exclusively in his service. Nottingham impressed upon Coxe the necessity for avoiding a premature disclosure of the destination of the mercenaries lest it might prejudice his negotiation with the Swiss, and concluded by urging him to hasten the final settlement of the treaty with the Protestant Cantons.

The knowledge that the allied cause in Italy was so closely dependent upon the result of his negotiations with the Cantons, increased the anxiety of the English ambassador for a speedy conclusion of the Anglo-Swiss treaty. But although William's counter-project [3] ("K's Project") was in the hands of Coxe by 27 June, the reopening of negotiations was retarded till 13 August by the intrigues of Amelot, the French ambassador. And when at last the deputies of the Protestant Cantons assembled at Aarau they refused to accept the counter-project and insisted upon

[1] Nottingham to Coxe, 1 July 1690. R.O. Foreign Entry Book 157. Another copy of this letter in Brit. Mus. Add. MS. 9740, ff. 26–27.

[2] Nottingham to Coxe, 26 August 1690. R.O. Foreign Entry Book 157.

[3] "Project d'Union auec Sa Majesté de la Grande Bretagne." Short title, "K's Project." Brit. Mus. Add. MS. 14, 416, ff. 50–53.

drafting the treaty anew. William had indeed made alterations which robbed the alliance of its distinctively defensive character. Article I reserved the hereditary alliance with Austria and the alliance and perpetual peace with France. But William made the significant addition that the reservation was not to be held to extend to lands acquired by France since 1663, and further, that the Cantons were to take steps to prevent Swiss troops in the service of Louis XIV from participating in the defence of such lands. The acceptance of Article I of the King's Project would have precipitated an immediate quarrel with France and the Swiss insisted upon the offending clause being omitted from the third draft of the treaty.

Article III provided for the raising of 4,000 mercenaries to serve as a guard for William's person and for the defence of his three kingdoms of England, Scotland and Ireland, or for such other service and in such place as William should find most convenient, without prejudice, nevertheless, to the alliances specified in Article I. Article VII provided that the mercenaries were not to be employed on naval service but only on land, the King being permitted, however, to employ them on land wherever he might wish, conformably to what is contained in Article III. Thus, according to the treaty as revised by William III, the Swiss mercenaries could be employed for offensive service against France. That such was William's design is proved beyond doubt by a passage in Nottingham's instructions accompanying the second draft of the treaty, " The King has no intentions of employing the Swisse in his owne dominions however he is content to give them the title of Guards as that which will better please them." Coxe sought to persuade the deputies to accept formulæ sufficiently general to admit of subsequent reinterpretation when the time should come for William to act upon his secret intention of employing the Swiss for offensive service,[1] but the deputies

[1] Coxe to Nottingham, 10/20 September 1690. R.O. State Papers Foreign, Switzerland, 7.

were inflexible, and Articles III and VII [1] as recast by the Aarau Diet restricted the mercenaries to defensive service only. Thus did the Swiss provide for the conservation of their neutrality.

In the matter of the deposit to be placed in Switzerland, William would not accede to the Swiss demand of 2,000,000 francs tournois, and Coxe had considerable difficulty in persuading the deputies to accept more moderate terms. After much contention, it was ultimately settled by Article XXIII that William should pay 6,000 livres tournois per month in time of peace and 24,000 livres tournois per month in time of war.

On 2 September 1690 the third draft of the treaty ("Original Treaty") [2] was signed by the English ambassador and the Swiss deputies, under reserve of reciprocal ratification.

In his letters to Nottingham, Coxe maintained that the success of his negotiation depended upon a speedy ratification of the treaty. The state of opinion in Protestant Switzerland was such that an immediate ratification of the Treaty of Aarau would inevitably bring the Swiss into the allied camp, while a refusal to ratify, or a delay in returning the ratification, would as infallibly alienate the Swiss completely and drive them into a renewal of close relations with France.[3] It was the anxiety of the Protestant Swiss, and especially of the Bernese, for the safety of Geneva, which gave added significance to Coxe's negotiations with the Cantons. Geneva, a place of first-rate strategic importance, had been practically surrounded by French troops since August 1690, and the Swiss feared that Louis XIV would seize the opportunity to overwhelm the city by a

[1] Article VII of the second draft was numbered XVIII in the third.

[2] "Traité D'Union Entre Sa Majesté Britannique et Les Cantons Evangeliques du Corps Helvetique." Short title, "Original Treaty." R.O. State Papers Foreign, Treaties, etc., 538.

[3] Coxe to Nottingham 10/20 September 1690, 22 October o.s. 1690, and 25 October o.s. 1690. R.O. State Papers Foreign, Switzerland, 7.

surprise attack.[1] The position of Geneva was indeed a precarious one. The fortifications had fallen into disrepair, the treasury was exhausted, and the city was dependent for its food supply upon the favour of France. The mass of the people were fanatically Protestant, were inclined to the allied cause, and held the Calvinist king of England in great veneration.[2] But the government was oligarchic and the greater number of the Councillors were partisans of Louis XIV, partly because they benefited economically and socially by the French connection, partly because they were sincerely convinced that the independence of the republic could only be preserved by a politic obedience to French dictation. Geneva was not a full member of the Confederation but was an "Ally"[3] of Bern and Zürich. Zürich, far removed from the western frontier and jealous of a further extension of Bernese territory in that region, was lukewarm in all matters touching the safety of Geneva. Of all the Cantons Bern alone had a vital interest in preserving the independence of Geneva, the key to their valuable territory of Vaud. So determined were the Bernese to prevent the encroachment of France in the region of Geneva and Vaud that they themselves suggested to Coxe the retention of the 4,000 mercenaries in Switzerland during the winter of 1690–1 as a defence force for the south-western frontier.[4] Coxe welcomed the idea, for he was convinced

[1] Coxe to Nottingham, 20 September 1690. R.O. State Papers Foreign, Switzerland, 7.

[2] Hervart to Nottingham, 30 December 1690. R.O. State Papers Foreign, Switzerland, 7.

[3] The constituent elements of which Switzerland was composed at the end of the seventeenth century may be thus classified: 1. the XIII Cantons, full members of the Confederation; 2. the "Associates" (Zugewandte) recognised by all XIII Cantons as members of the Corpus Helveticum, but of secondary status; 3. the "Allies" (Verbündete) attached to either the Catholic or the Protestant group of Cantons, but not recognised as constituent parts of the Confederation except by the particular group to which they were attached, *e.g.* Geneva was the "Ally" of Bern and Zürich, and as such was considered an integral part of Switzerland by all the Protestant Cantons, but not by the Catholic.

[4] Coxe to Nottingham, 10/20 September 1690. R.O. State Papers Foreign, Switzerland, 7.

that an impressive display of military strength on the part of the Swiss would inevitably goad Louis XIV into a declaration of war. Hostilities having been thus precipitated the 4,000 mercenaries would be reinforced by additional levies raised by the Swiss on their own account, and the allies would thus obtain an accession of military strength at a point where it would be invaluable to them for purposes of aggression.[1] But without the immediate ratification of the treaty this entanglement of the Swiss Protestants in the general war would never be effected.

During the last four months of 1690 the object of English diplomacy in Switzerland was to involve the Cantons in the general war by playing upon their fears for Geneva. In order to focus the attention of the Protestant Swiss upon that republic Coxe urged William to put into effect a plan which had been in William's mind since the opening of the war—the establishment of an English resident in Geneva. Till now William had taken no steps to execute the design beyond informing the Council of Geneva of his intention in May 1689, and appointing Philibert d'Hervart [2] to the post in August of the same year. It was now the opinion of Coxe, as well as of the English party in Bern, that Hervart's immediate dispatch was "of absolute necessity to the safety of Geneva." [3] It was obvious that Louis XIV designed either to coerce the Genevese into complete subservience to his will or to overwhelm the city by force of arms. English diplomacy strove to provide against both contingencies. By sending Hervart to Geneva it was hoped to consolidate the anti-French elements in the republic itself and by this means establish an effective counterpoise

[1] Coxe to Nottingham, 20 September 1690. R.O. State Papers Foreign, Switzerland, 7.

[2] Philibert d'Hervart, Baron d'Huningue, one of the most famous of Huguenot refugees, was the youngest son of Barthelemy d'Hervart, Comptroller of the Finances under Mazarin.

[3] Coxe to Nottingham 10/20 September 1690. R.O. State Papers Foreign, Switzerland, 7.

to the hitherto dominant influence of Iberville, the French resident.[1] And to enable Geneva to withstand a siege Coxe was to induce the Cantons of Bern and Zürich to provide a garrison of 600 men and to arrange for the supply of corn from the Emperor.

Hervart arrived in Bern 15/25 December 1690.[2] The leading magistrates heard the news of his arrival in Switzerland with consternation. They feared that the reception of an English resident in Geneva would cause an immediate rupture with France, for Iberville had declared that Hervart's entry into Geneva would be the signal for his own departure.[3] The Genevese therefore made haste to implore the authorities of Bern to stay Hervart's further progress, but the English agent was not to be turned aside, and on 1 January 1691 he entered Geneva incognito. He found the people enthusiastic for William's cause and determined "to shed their last drop of blood rather than submit to France."[4] For ten days Hervart remained incognito, ingratiating himself the while with the populace, whose favour he easily gained by his attractive offers of wheat at a price one-fourth less than that quoted by the French.[5] Hervart's object was apparently so to rouse public opinion that the Council would be powerless to oppose popular dictation. On 11 January he opened negotiations for an official reception, and on the following day his application was considered by the Council of Sixty, who resolved that no decision could be taken without the concurrence of the Council of Two

[1] Hervart's "Additional Instructions," 23 October 1690. R.O. Foreign Entry Book, 157.

[2] Hervart to Nottingham, 17/27 December 1690. R.O. State Papers Foreign, Switzerland, 7.

[3] Oberkan to Coxe, 19 November 1690. R.O. State Papers Foreign, Switzerland, 7. Oberkan was a Swiss officer recommended to William by Coxe for the command of the Zürich Regiment of the English levies. Coxe had persuaded the authorities of Zürich to allow him to go to Geneva to inspect the fortifications there.

[4] Hervart to Nottingham, 30 December 1690. R.O. State Papers Foreign, 7.

[5] Hervart to Coxe, 6 January 1691. R.O. State Papers Foreign, Switzerland, 8.

Hundred and of their allies Bern and Zürich.[1] This decision involved a delay of several days, as elections were then in progress, and the Council of Two Hundred could not be convened till the results were known. In their anxiety to gain time the Genevese were ready to make use of any pretext.

Before proceeding further with the narrative of Hervart's mission, it will be necessary to bring the account of Coxe's negotiations up to the beginning of 1691.

The treaty of Aarau had been signed 2 September 1690, but it was not till 20 December that the King's ratification [2] arrived in Switzerland. The undue delay shook the confidence of the Swiss in the sincerity of William's intentions, and their worst suspicions were confirmed when they learned the nature of the changes which he had made in nine of the Articles. Five of these gave little offence, the other four so displeased the Swiss that they refused to counter-ratify the treaty.

According to Article XIX, the period of service of the Swiss mercenaries was to be for the duration of the war and in any case was not to be for less than four years, whether the war lasted so long or not. According to Article XIX as revised by William the period of service was to be for the duration of the present war, and after the war was finished the King was to be at liberty either to transfer the troops to the service of whichever of the allied powers the Cantons should prefer, or to disband the troops with a gratuity of six months' pay in advance. In a letter to Coxe [3] accompanying the ratification, Nottingham explained that as the war could not in reason be expected to continue for four years, and as the Bill of Rights made illegal the

[1] Hervart to Nottingham, 2/12 January 1691. R.O. State Papers Foreign, Switzerland, 8.

[2] "Traitté d'Union Entre Sa Majesté Britannique et les Cantons Evangeliques du Corps Helvetique." R.O. State Papers Foreign, Treaties, etc., 538. Another copy in Brit. Mus. Add. MS. 38013, ff. 52–57.

[3] Nottingham to Coxe, 25 November 1690. R.O. Foreign Entry Book, 157.

maintenance of a standing army in time of peace, the King could not possibly keep on foot a body of troops, especially foreign troops, beyond the conclusion of peace. The Swiss objected to Article XIX on two grounds. First, it opened the way to an unrestricted employment of the mercenaries, thus infringing the principles of neutrality. Second, it did not guarantee a term of service sufficiently long to make the capitulation a profitable speculation for the captains.

Article XX, as revised by William, provided that when the mercenaries were on service in his dominions they were to enjoy their customs and privileges only so far as the Law of England permitted. The Swiss objection to this Article was based on the fear that Louis XIV might be encouraged thereby to introduce similar restrictions in his own Swiss regiments.

In Article XXIV of the treaty of Aarau William undertook, in the event of the Protestant Cantons being attacked, to do his utmost to effect diversions with his armies and to recommend their interests to his allies. According to the Article, as revised, William undertook, in the event of the Protestant Cantons being attacked on account of the present treaty, to do his utmost to effect diversions with his armies and to recommend their interests to his allies. The addition of the words " on account of the present treaty " seemed to the Swiss to deprive Article XXIV of any real value to themselves, while it afforded William a means of escape from the fulfilment of his obligations. Any power attacking the Protestant Cantons on account of the Anglo-Swiss treaty had only to ascribe the outbreak of hostilities to some other cause, to deprive the Swiss of all claim upon William for assistance. To the Swiss, Article XXIV was a convincing proof of William's dishonesty of purpose.

Of all the alterations, however, that of Article III was by far the most important. According to Article III of the treaty of Aarau, the Swiss mercenaries were to be employed " for the defence of the three kingdoms of England, Scotland and Ireland : as also of the Royal Persons." In

Article III of the ratification the words "and of their Allies" were added after "Royal Persons." As Coxe observed, the effect of the insertion of these four words was to give William the power to dispose of the levies how and where he pleased.[1] Nottingham's accompanying letter leaves us in no doubt as to William's real intentions. The troops were to be placed for a time in Geneva and Vaud, and were then to be transferred to Piedmont for service under the Duke of Savoy. Nottingham explicitly stated that the mercenaries would not be used for defensive service in the three kingdoms: "the King has no thoughts of employing these troops in his owne dominions."[2] That William was determined either to bring the Swiss to grant the use of their troops for offensive service, or, in case of refusal, to break off the negotiation altogether, is clear from another passage in this letter of Nottingham's:

"But since his Matys intentions for the employing these Troops are such as you know, that they will be of noe use to him unless he may soe employ them; that the demand of such a liberty would be very precarious if made after the Ratification and if not obtained, the vast expence of them would be in effect lost and the money throwne away wch might purchase as good Troupes and in much greater Number and without any limitation of their service; these things considered you cannot wonder at the Kings insisting upon these additional words."

The Swiss were equally determined to break off negotiations for an alliance rather than give permission to William to use the troops for offensive purposes. Accordingly, at the Diet of Bern 12/22 to 16/26 January 1691, the deputies of the Protestant Cantons rejected the King's ratification.[3]

The project of an Anglo-Swiss alliance failed because William's demands were incompatible with that canon of Swiss neutrality which restricted all capitulated troops to

[1] Coxe to Nottingham, 17/27 December 1690. R.O. State Papers Foreign, Switzerland, 7.

[2] Nottingham to Coxe, 25 November 1690. R.O. Foreign Entry Book, 157.

[3] Abschiede VI, 2, i, p. 382.

the defence of the lands of the prince whose service they entered.

William's alteration of the treaty decided the fate of the English mission to Geneva. Though the Council of Sixty had refused to accede immediately to Hervart's first memorial of 11 January, a majority were disposed to accord him an official reception. On 18 January, the Council of Two Hundred reassembled after the elections, and the next day Hervart renewed his application in a second memorial,[1] in which he threatened to depart at once if his credentials were again refused. By this time the news of the changes in the Anglo-Swiss treaty had reached Geneva, and those Councillors who had been inclined to favour him hitherto, now withdrew their support.[2] The Genevese were well aware that the Protestant Cantons would never accept William's new proposals, and the failure of Coxe's negotiations being now a certainty, they no longer dared to defy Louis XIV by openly receiving Hervart as English resident. Accordingly, that same day, 19 January 1691, the Council of Two Hundred sent Hervart another evasive reply,[3] which, in view of the warning contained in his second memorial, was tantamount to a final refusal. Two hours later Hervart left Geneva.[4]

The failure of the English diplomatic missions gave Amelot, the French ambassador, the opportunity to re-establish the ascendancy of France in Protestant Switzerland. By means of obtaining places for the unemployed in the Swiss regiments of Louis XIV, and by means of substantial cash payments to the cantonal treasuries and to influential families, Amelot greatly enhanced the prestige of his country

[1] "Copie du memoire presenté à Messr. du Conseil de Geneue 9/19 Jenuier: 91." R.O. State Papers Foreign, Switzerland, 8.

[2] Hervart to Nottingham, 17 January 1691: cf. R.O. Coxe to Nottingham, 7/17 January 1691. R.O. State Papers Foreign, Switzerland, 8,

[3] "Memoire presenté au Sr. D. Hervart le 9 Jenuier 1691." R.O. State Papers Foreign, Switzerland, 8.

[4] Hervart to Nottingham, 14 January 1691. R.O. State Papers Foreign, Switzerland, 8.

in the eyes of the Confederates.[1] The influence of English diplomacy suffered a corresponding depression, and Coxe was able to effect little of importance during the remainder of his stay in Switzerland. In the spring of 1692 William decided upon his recall, and on 28 May Coxe bade farewell to the deputies of the Protestant Cantons assembled at Aarau.

He was succeeded as extraordinary ambasaador by Hervart, who held the post till 1702. Hervart's negotiations during the years 1692–1697 were of very secondary importance, his chief service to the allied cause being his co-operation with Valkenier, the Dutch ambassador to the Confederation, in the raising of several thousand capitulated troops for service in Holland.

The English mission to Protestant Switzerland was productive of one result of positive value to the Confederation —the inclusion in the peace of Ryswick of the XIII Cantons with specific mention of the " Associates " and " Allies."

The inclusion of the Swiss in treaties of peace between the great European powers had come to be regarded as a virtual recognition by international law. The Swiss were dissatisfied, however, with the very general terms in which the various clauses of inclusion were couched : *e.g.* the peace of the Pyrenees mentioned " the XIII Cantons of the Swiss Confederation and their Associates and Allies." The Swiss felt that as long as the " Associates " and " Allies " were not separately named, so long would the territorial extent of Switzerland remain uncertain.

The Swiss Protestants were particularly desirous of securing an express mention of Geneva in the general peace. Once Geneva was expressly included in a European peace treaty its status as part of the Swiss Confederation could not be called in question. The policy of inclusion by name was directly contrary to the interests of France. Louis XIV wished to keep the terms of inclusion vague in order

[1] Précis de la Négotiation de Mr. Coxe en Suisse. Brit. Mus. Add. MS. 38013, f. 10.

that a possible seizure of Geneva by France would not necessarily lead to a rupture with the Cantons on the ground that a violation of Swiss territory had been thereby committed.

As the war drew to a close the Swiss appealed to all the belligerents for the insertion of a sufficiently comprehensive inclusion clause in the peace treaty, but it was upon William III that the Swiss Protestants relied chiefly for the effecting of their desires. They were not disappointed. William, who cordially approved of the Swiss proposals, secured the inclusion of the XIII Cantons, their "Associates" (expressly named) and their "Allies" (expressly named) in the peace of Ryswick,[1] and this in the face of the opposition of Louis XIV. The Swiss Protestants readily acknowledged that it was to William III that they owed the international recognition of Mühlhausen, Biel, Geneva, and the town and county of Neuchâtel as integral parts of the Swiss Confederation.[2]

[1] Dumont Corps Univ. Dipl. VII. pp. 383, 398, 405, 427, 411.

[2] d'Arzeliers to —— 1/11 November 1697. R.O. State Papers Foreign, Switzerland, 9. The Marquis d'Arzeliers, a Huguenot refugee, had been since 1695 William's agent in Geneva, but without title.

# LORD PALMERSTON'S POLICY FOR THE REJUVENATION OF TURKEY, 1839–1841.[1]

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During the period from 1839 to 1841, when the Concert of Europe intervened in the second Syrian war between Sultan Mahmoud and Mehemet Ali Pasha of Egypt to save the Ottoman Empire from destruction, Lord Palmerston the British Secretary of Foreign Affairs energetically opposed a return to the *status quo ante bellum* in the Levant, risked the development of a serious international crisis in Near Eastern affairs, and played a leading rôle in the negotiation and execution of an arrangement by which Syria and Crete were restored to the direct rule of the Sultan and by which the authority of Mehemet Ali was confined to Egypt. The story of these developments is a familiar one; yet it is not generally known that at the same time when Palmerston was energetically attempting to exploit events in the East to bring about a settlement of the Turco-Egyptian Question in the interest of the Sultan he was also actively elaborating and extending a policy for the rejuvenation of Turkey which he had outlined in a period of peace in the Levant between 1833 and 1839.

Eager to encourage the reorganisation of the Ottoman army after its defeat by the Egyptians at Nezib in June, 1839, the British Foreign Secretary instructed Lord

[1] "People forget that a community never can grow old and die of decay."—Palmerston.

Ponsonby, Her Majesty's Ambassador at Constantinople, to point out to the Porte how much it might profit by the military skill and acquirements of a few European officers. Palmerston believed at that time that the best move the Turkish Government could make would be to give actual command of its troops to some few good officers, "either English or German," and that if a small model corps was thus organised the Porte would soon find that the example set by the new organisation would spread the spirit of improvement through the rest of the Turkish army. In order to avoid jealousy such a corps could be composed of *rayahs* or Albanians raised by voluntary enlistment.[1]

The Porte hesitated to follow Palmerston's advice literally, but it did consent to have Chrzanowski a Polish officer in the British service draw up plans for its defence in Asia Minor, and it accepted propositions outlined by Captain Walker of the Queen's Navy for the improvement of naval training in Turkey.[2] Approving these beginnings of reform Palmerston, in May 1840 instructed Ponsonby to impress upon the Ottoman ministers that there was one thing which had hitherto impeded the British Government from carrying fully into effect its anxious desire to assist the Sultan. This was the general opinion, "exaggerated no doubt, but nevertheless too prevalent," that the Sultan had in 1839 been entirely stripped of all means of self-defence and that the whole task of protecting him must fall upon his allies. Hence in proportion as the Sultan revealed that he had been successful in the reorganisation of his means of defence it would become less difficult for Great Britain to give effect to her "good wishes" in his behalf.[3]

After the Treaty of 15 July 1840 had been signed, and

[1] Palmerston to Ponsonby, No. 182, 2 Dec. 1839, Public Record Office MSS., F.O. 78/353.

[2] Walker to Ponsonby, 20 Apr. 1840, Ponsonby to Palmerston, No. 86, 25 Apr. 1840, *ibid.*, F.O. 78/393; Ponsonby to Palmerston, Nos. 100 and 103, 13 and 15 May 1840, *ibid.*, F.O. 78/394.

[3] Palmerston to Ponsonby, No. 69, 20 May 1840, *ibid.*, F.O. 78/389.

it became evident that the four Powers—Great Britain, Austria, Russia, and Prussia—would have to employ force against Mehemet Ali to accomplish their common purpose in the restoration of Syria and Crete to the authority of the Sultan, Palmerston directly initiated a number of practical moves to further Ottoman military reform. While a British fleet and a small detachment of the Queen's troops were coöperating with the Turks along the Syrian coast, arms and ammunition were supplied to the Sultan's forces on liberal terms from Her Majesty's stores at Malta, various officers seeking military adventure were encouraged to apply to the Porte for employment, and the Ottoman Government was frankly informed that it "must find and furnish the means" to produce pressure by land upon the Egyptians.[1] Also the British Foreign Secretary, without waiting for petitions from the Porte, dispatched special missions to the Levant to aid the Turks directly in the reform of their military system.

One of the special detachments which Palmerston sent to Turkey in 1840 was a group of medical officers headed by Dr. Davy. Davy and the five men under his direction were instructed to make immediate provision for the medical wants of the forces which were upholding the Sultan's cause against Mehemet Ali; they were to assist the Turkish Government in placing the medical department of its army on a proper footing; they were to work for the establishment of a school of medicine for native Turks at Constantinople; and they were to pay careful attention to the nature of the plague, to determine whether it was contagious, and to give the Porte their opinions on quarantine.[2] Ponsonby was directed to support Davy's mission and to point out to the Ottoman authorities the great advantages which they might derive from sending a few

[1] Palmerston to Ponsonby, Nos. 105, 129, 140 and 154, 17 July, 3, 22 and 31 Aug. 1840, *ibid.*, F.O. 78/390; Palmerston to Ponsonby, Nos. 201, 254, 257 and 276, 17 Oct., 30 Nov., 21 Dec. 1840, *ibid.*, F.O. 78/391.

[2] Palmerston to Davy, Nos. 1–4, 27 and 30 Oct. 1840, *ibid.*, F.O. 78/415.

intelligent young Turks to England to be educated in medicine.[1] Davy and his men, like many others who preceded or followed them on special missions to Turkey, found Ottoman conservatism so formidable that they were unable to make much progress in the attainment of their aims. Davy studied conditions in the Turkish medical service, he drew up reports upon a college of medicine at Pera and upon various military hospitals in the neighbourhood of the Turkish capital, and he submitted to the Ottoman Government plans for the reorganisation of the medical department of its army.[2] However, the Porte, as frequently was its custom during the nineteenth century, delayed action upon all recommendations which were designed to bring about practical reforms. Having failed to achieve their main objective, Davy's group of medical officers could claim when they eventually withdrew from Turkish territory (September 1841), that they had performed some immediate medical service for the subjects of the Sultan and that they had obtained a promise for the dispatch of eight or ten Turkish youths to England for the completion of their medical education.[3]

Another special mission which Palmerston sent to the Levant during the crisis of 1840 was composed of officers who were to superintend the provisioning of the Anglo-Turkish forces in Syria and, if practicable, to assist in the establishment of a permanent commissariat for the Turkish army.[4] Apparently the prospects for the accomplishment of the second objective of this mission were far from bright. "I am afraid," Ponsonby wrote on 14 October 1840,

[1] Palmerston to Ponsonby, Nos. 218 and 220, 29 and 31 Oct. 1840, Public Record Office MSS., F.O. 78/391.

[2] Davy to Palmerston, 29 Nov., 11 Dec. 1840, *ibid.*, F.O. 78/415; Davy to Palmerston, 1 Feb., 4 Mch., 11 June 1841, *ibid.*, F.O. 78/460; Davy to Ponsonby, 30 Jan. 1841, *ibid.*, F.O. 78/430.

[3] Ponsonby to Palmerston, No. 296, 20 Sept. 1841, *ibid.*, F.O. 78/437; Davy to Palmerston 22 Mch., 13 July, 1 and 18 Sept. 1841, Palmerston to Davy, Nos .7, 10 and 11, 28 Apr., 4 June, 15 July 1841, *ibid.*, F.O. 78/460.

[4] Palmerston to Ponsonby, No. 173, 15 Sept. 1840, *ibid.*, F.O. 78/390; Palmerston to Ponsonby, No. 263, 11 Dec. 1840, *ibid.*, F.O. 78/391.

"that it would not be agreeable to the Turks to put foreigners forward in this line [the Commissariat], and I do not believe it would be in the power of the British commissaries to render any service at Constantinople, because I believe they would have to support the blame of failure without having been the cause of it." [1] As the British Ambassador believed this mission was doomed to failure he did not insist on the employment of its members by the Porte and the commissariat of the Turkish army remained unreformed.[2]

A third detachment dispatched to Turkey by the British Government proved more successful; it was made up of officers and men of the Royal Artillery and Engineers under the command of Captain Williams.[3] The detachment left England in January 1841, and though its employment by the Turks remained doubtful for a time, Williams was able to report in May 1841 that he had received directions from the Turkish Government to establish himself at Tophana "for the purpose of reforming and remodelling the whole material of the Artillery and Engineer-[ing] Departments" of the Sultan's army.[4] Williams's mission may not be judged to have revolutionised the Ottoman ordinance service, but it at least succeeded in the establishment of an "artillery laboratory" for the casting of guns, howitzers, and mortars at the Turkish artillery headquarters of Mehemet Ali Pasha of Tophana, and before reaction destroyed the hope of reform in Turkey its commander frequently supplied both Turkish ministers and British ministers with advice upon Ottoman military affairs.[5]

[1] Ponsonby to Palmerston, No. 237, 14 Oct. 1840, *ibid.*, F.O. 78/397.
[2] Ponsonby to Palmerston, No. 88, 9 Mch. 1841, *ibid.*, F.O. 78/432.
[3] Palmerston to Williams, 11 Jan. 1841, *ibid.*, F.O. 78/461.
[4] Williams to Palmerston, 14 May 1841, *ibid.*
[5] Williams to Ponsonby, 7 June 1841, Ponsonby to Palmerston, 8 June 1841, *ibid.*, F.O. 78/434; Ponsonby to Palmerston, No. 272, "Confidential," 28 Aug. 1841, with several enclosed copies of letters from Williams, Williams to Ponsonby, 28 Sept. 1841, *ibid.*, F.O. 78/437; Bankhead to Aberdeen, No. 24, 29 Oct. 1841, *ibid.*, F.O. 78/438; Williams to Canning, 24 Feb. 1842, Williams to Aberdeen, 22 July 1842, *ibid.*, F.O. 78/505.

Determined to leave no stones unturned for the improvement of the defences of Turkey, Palmerston maintained in Syria, as long as he remained in office in 1841, a detachment of the British soldiers who had helped the Turks to clear the country of Egyptians. In instructions to the commander of these men the British Foreign Secretary directed that they should assist in the organisation of Turkish troops as well as superintend the repair of fortifications along the Syrian coast.[1]

Foreseeing that Palmerston's numerous attempts to thrust military advisers upon the Turks might occasion a reaction against all innovations proposed from abroad, Ponsonby, early in 1841, warned his superior to send no more missions to Turkey without the Porte's consent. "It appears to me," he wrote,

> "that things can be done, little by little, and will not be done by other means. The wedge has already entered, thanks to circumstances, and it may be driven home by well regulated strokes. We have Jochmus virtually at the head of the army with the honest consent of the Turks. Walker is at the head of the fleet. These are great advantages, which must work well, if not disturbed by precipitation and the display of our influence."

The British Ambassador also wrote that he would rejoice to know that Palmerston thought proper to concert with the Ottoman Government respecting the employment of British officers before they were sent to Constantinople, for such a policy would prevent much difficulty and avoid many failures.[2]

Palmerston did not object to this advice of the Queen's Ambassador at Constantinople. In fact he stated in

[1] Palmerston to Bridgeman, No. 1, 4 Mch. 1841, Public Record Office MSS., F.O. 78/453; Rose to Palmerston, No. 26, 21 Apr. 1841, *ibid.*, F.O. 78/455. In response to a request from the Porte, Lord Aberdeen, early in his second term at the Foreign Office, withdrew the British detachment from Syria. Cf. Ponsonby to Palmerston, No. 276, 2 Sept. 1841, *ibid.*, F.O. 78/437; Aberdeen to Canning, No. 5, 2 Nov. 1841, *ibid.*, F.O. 78/439.

[2] Ponsonby to Palmerston, No. 70, 21 Feb. 1841, *ibid.*, F.O. 78/431.

reply that if, as he hoped, the Turks decided to employ the Hanoverian General Jochmus to organise their army they perhaps should engage German officers instead of British to act under him. Germans could probably be obtained cheaper, their employment would excite less attention in Europe, and it would cause less jealousy on the part of other Powers. There were obvious reasons why the Porte should employ British officers to organise the Turkish fleet, but those reasons did not apply equally to the Turkish army.[1] On another occasion in 1841 Palmerston suggested that Great Britain should confine her efforts for military reform in Turkey to the support of a plan drawn up by Colonel Rose, Commander of the British detachment in Syria. By this plan it was proposed that a commission of officers under Jochmus should outline a programme of military reorganisation which the Turks themselves could carry into effect. "There is indeed," Palmerston admitted, "so much to be done in order to put the various departments of the Turkish army on a good footing that the magnitude of the task might at first inspire despair; but by patience and perseverance, and by being contented with effecting a little at a time much may at length be accomplished." One of the first things to be done was to create an establishment for the instruction of officers, and Palmerston agreed with Rose that elementary studies—reading, writing, arithmetic, and "a little geometry"—in addition to military drill would constitute an ample *curriculum* for such an establishment. What was essentially wanted in the Ottoman army, it was emphasised, was—the immediate reward of merit by promotion or distinction, and the punishment of demerit by removal or the withholding of advancement. Palmerston was ready to allow any of the British officers in Syria, or others who might desire to go to Turkey and whose services the Porte might be willing to accept, to assist Jochmus in his endeavours to improve the Turkish service; but the

[1] Palmerston to Ponsonby, No. 27, 10 Feb. 1841, *ibid.*, F.O. 78/427.

English Minister declared he was quite aware that any ostentatious display of British influence in this matter, or any attempts to introduce too many British officers into the Sultan's employ, would only defeat the purpose he had in view.[1] Finally in August 1841, on the eve of the resignation of Lord Melbourne's Cabinet, Palmerston approved a step which Ponsonby had taken in July of the same year favouring the Porte's employment of no foreign military advisers except Jochmus.[2]

Thus at the close of Palmerston's term at the Foreign Office in 1841 the idea that foreign missions could bring about military and naval reform in Turkey was being discredited generally; nevertheless, Great Britain, influenced by the course which the Foreign Secretary had taken, continued to regard the strengthening of Turkey's means of defence as of paramount importance. One of the last acts of Ponsonby before he left Constantinople in 1841 was to induce the Porte to purchase iron steamers to strengthen its fleet, and Aberdeen in his general instructions to Ponsonby's successor, Stratford Canning, declared:

"In a country without a regular police, and in which the civil power possesses little force, order must be preserved, and security afforded, by the presence of the military. . . . An improved organisation, therefore, of the army, by which discipline and regularity may be established, seems to be an object of the first necessity. It is understood that this reformation is now in progress [in the Ottoman Empire]. . . . You will endeavour to promote the success of these salutary measures, and to obviate the effects of an interested or prejudiced opposition which may be raised against them." [3]

During the crisis which followed the outbreak of the

[1] Palmerston to Ponsonby, No. 52, 23 Mch. 1841, Public Record Office MSS.

[2] Palmerston to Ponsonby, No. 190, 3 Aug. 1841, *ibid.*, F.O. 78/429; Ponsonby to Palmerston, Nos. 222 and 258, 2 and 31 July 1841, *ibid.*, F.O. 78/436.

[3] Palmerston to Ponsonby No. 94, 21 Apr. 1841, *ibid.*, F.O. 78/428; Ponsonby to Aberdeen, "Separate and confidential," 8 Oct. 1841, *ibid.*, F.O. 78/437; Aberdeen to Canning, No. 2, 30 Oct. 1841, *ibid.*, F.O. 78/439.

second Syrian war between Mahmoud and Mehemet Ali Palmerston's interest in the strengthening of the Ottoman Empire led him to champion fundamental reforms in the Turkish administrative system as well as in the reorganisation of the Sultan's army and navy. On 25 August 1839 he maintained in a private letter to Lord Beauvale, the British Ambassador to Austria, that if the friends of Turkey could only induce the Porte to adopt, in addition to reforms for its armed forces, a rational system of administration and finance; to pay the Pashas, preventing the purchase and sale of all employments and making the revenue come into the public treasury; to establish laws giving security for life and property; and to prevent men being arbitrarily despoiled of all their goods or put to death, they would "in a very few years get Turkey into a condition of progressive improvement and there would be an end of all the nonsense which people talked about Turkey being in decay and falling to pieces"—nonsense which sprang "from mistaking a metaphor for an argument, and from fancying that because you compare a community to a man's body and to an old tree and building that therefore all the attributes and moralities of the one are *ipso facto* transferred to the other." In Palmerston's opinion,

> "People forget that a community never can grow old and die of decay, because all its parts are constantly renovated, and it is as youthful and lively at the end of a century as it was at the beginning. A community is not like a man or a tree or a building whose parts are not renovated but remain the same, and are worn out and decay by age and use. All that is requisite to keep an Empire vigorous for an indefinite period of time is that its institutions and laws should adapt themselves to the changes which take place in the habits of the people and in the relative position of the community as compared with other countries." [1]

For several months, both before and after the outbreak

[1] Palmerston to Beauvale [Private], 25 Aug. 1839, Austrian *Staatsarchiv*, England (*Varia*), 1833–1839, F. 29. On 1 Sept. 1839, Palmerston expressed similar sentiments in a letter to Bulwer. Cf. Bulwer, *Life of Viscount Palmerston*, II (London, 1871), pp. 298–299.

of the second Turco-Egyptian conflict, Reshid Pasha, the well-known reform minister of the Porte, was in London on a special mission. The conversations which he held with Palmerston while the Turkish mission sojourned in the English capital are not recorded in the archives of the British Foreign Office ; yet it may be ventured, almost with certainty, that the two ministers discussed in detail the programme of the famous *Hatti Scherif of Gulhané* which was to be promulgated at Constantinople, largely through Reshid's influence, soon after his return from England to his native country. On 12 August 1839, just before the Turkish representative left London, he presented to Palmerston an elaborate memorandum covering virtually every phase of the question of reform in Turkey.[1] Less than two weeks later the British Foreign Secretary outlined in his private correspondence with Beauvale every fundamental idea of Turkish reform which Reshid was about to incorporate in his famous Tanzimat.[2] Furthermore, when Reshid arrived at Constantinople he informed Ponsonby about the Ottoman programme for reform. According to one of Ponsonby's reports, Reshid stated that he favoured the adoption of measures giving security to life and property in his country, and that he wished to consult with the British Ambassador on the execution of such a programme.[3]

In response to Reshid's advance, Ponsonby recommended that " caution should be united with energy " in the pursuit of the Porte's " inestimable ends." Truly, on the eve of the promulgation of the Tanzimat he thought " it prudent not to enquire much into the matter " lest he should " incur responsibility." [4] However, promptly after

[1] Memorandum of Reshid, " Confidential," 12 Aug. 1839, Public Record Office MSS., F.O. 78/383.

[2] Cf. Palmerston to Beauvale [Private], 25 Aug. 1839 as cited on p, 171, footnote No. 1.

[3] Ponsonby to Palmerston " Separate and secret " 30 Sept. 1839, Public Record Office MSS., F.O. 78/359.

[4] Ponsonby to Palmerston, 22 Oct. 1839, *ibid.*

the Sultan had proclaimed the Hatti Scherif at Gulhané the British Ambassador wrote unreservedly:

"What has been done is excellent in conception and execution. It is in perfect unison with the religion and interests and feelings of the people, and at the same time provides security for the great interests of every class of subjects, whilst it infringes no right or privilege of any. It is a victorious answer to those who say that this empire cannot be saved by its ancient government, and that the spurious regeneration to be worked out by the Pasha of Egypt is its only preservative." [1]

Palmerston likewise approved of the Tanzimat in no uncertain terms when he learned that it had been proclaimed. On 2 December 1839, he informed Ponsonby that the Cabinet had received the document "with much satisfaction" and directed that the cordial congratulations of the British Government be conveyed to the Porte on the adoption of a measure which was "fraught with incalculable advantage to the Ottoman Empire" and which redounded highly to the honour of the statesmen by whom it had been framed. At the same time the Queen's Secretary of Foreign Affairs instructed the British representative at Constantinople to assure the Turkish Ministers that Great Britain would afford to them "all such support and countenance" as a foreign government could properly give "towards the carrying out of the excellent principles" which were set forth in the Hatti Scherif. Her Majesty's Government "most sincerely" wished Reshid Pasha all the success which he so well deserved "in his praiseworthy endeavours to improve the institutions, and thus to promote the happiness, the prosperity, the power and the independence of his country." [2] Palmerston must not have forgotten soon the promise which he made thus in the name of Great Britain for, before he withdrew from office in 1841, he repeatedly encouraged the Porte not to falter in the execution of the Tanzimat.

[1] Ponsonby to Palmerston, No. 301, 5 Nov. 1839, *ibid.*, F.O. 78/360.
[2] Palmerston to Ponsonby, No. 181, 2 Dec. 1839, *ibid.*, F.O. 78/353.

Immediately after the Tanzimat was proclaimed prospects for its execution appeared very promising. On the last day of 1839 Ponsonby quoted Reshid as saying that a measure had been carried in the Turkish Council which would prove to the world that the Hatti Scherif of Gulhané was a reality. By this measure it was provided that after March 1 1840, all "governors of provinces, cities, and burghs" should be paid fixed salaries. Also promotions were to be by merit only, governors were to exact nothing except the established imposts of the Porte, and tax farming was to be "forever abolished." [1]

When Palmerston received this promising report he promptly replied, "with great satisfaction," instructing Ponsonby "to congratulate Reshid Pasha in the name of Her Majesty's Government" upon the perseverance he had shown "in his systematic endeavours to reorganise his country, and to improve its institutions, and upon the success with which those endeavours" had already been attended. Furthermore the English Foreign Minister suggested that the Queen's Ambassador might "make known to the Sultan the high sense entertained by the British Government of the wise and enlightened measures" with which he had "so auspiciously commenced his reign." [2] In a dispatch accompanying this reply Palmerston directed Ponsonby to inform Reshid that the British Government was delighted to find he was working "in so wise and judicious a manner; and that instead of endeavouring to set up prematurely new institutions, which would be repugnant to the habits and prejudices of the Turkish nation" he was "progressively improving and developing the old institutions of his country, and in truth bringing them back to their ancient purity and vigour." Reshid, according to Palmerston's opinion, seemed "to understand the force of the well-known maxim" that those "who

[1] Ponsonby to Palmerston, No. 346, 31 Dec. 1839, Public Record Office MSS. F.O. 78/360; Ponsonby to Palmerston, No. 15, 16 Jan. 1840, *ibid.*, F.O. 78/392.

[2] Palmerston to Ponsonby, No. 17, 4 Feb. 1840, *ibid.*, F.O. 78/389.

wish to improve things should preserve ancient names, and by that means avoid rousing needless jealousies, and exciting unnecessary distrust." [1]

Several months later, after Ponsonby had noted that "strong symptoms of popular distaste for the Franks" were appearing at Constantinople, Palmerston was aroused lest reactionary elements might succeed in intrigues for the removal of Reshid from the Turkish Foreign Office.[2] In order to defeat such intrigues the British Secretary of Foreign Affairs instructed Ponsonby to coöperate with the Austrian Internuncio in support of Reshid and to express to the Sultan in the strongest manner the conviction of Her Majesty's Government that all its efforts to aid him in his contest with the Pasha of Egypt would be marred if Reshid was to be removed from his post or was to be deprived in any way of the power "to second" the exertions of Great Britain in behalf of Turkey.[3]

In 1841, after British arms had played a major rôle in the restoration of the Sultan's authority in Syria, Palmerston again directed that the attention of the Turkish Government should be called to the question of administrative reform. The British Cabinet, he wrote to Ponsonby in March 1841, hoped to see the recent success of the Turks against Mehemet Ali followed by a rapid increase in the prosperity of the Sultan's domains and by a diffusion of contentment and happiness among all classes of the Sultan's subjects in every part of his extensive empire. The Sultan had already adopted a measure which would live for ever in the grateful recollection of his subjects. That measure—the Hatti Scherif of Gulhané—"was an act of the greatest wisdom, as well as of the most enlightened justice and benevolence." Nothing remained for the Sultan to do except to cause the Hatti Scherif to be strictly and faithfully executed in every part of his domains, and

[1] Palmerston to Ponsonby, No. 18, 4 Feb. 1840, *ibid.*
[2] Ponsonby to Palmerston, No. 156, 1 Aug. 1840, *ibid.*, F.O. 78/395.
[3] Palmerston to Ponsonby, No. 228, 9 Nov. 1840, *ibid.*, F.O. 78/391.

to follow it up by such other practical measures of reform as might be necessary to carry out the principles upon which it was founded. All the Sultan's subjects, "be their rank and station high or low, be they rich or poor, be they born in one part of his dominions or in another, and from whatever race descended, be they Mahometan or Christian or Jew or of any other religion," should enjoy equal rights and privileges and should live equally secure and free from oppression either in their persons or in their property. In other words, all should be protected equally from fraud, injustice, and violence by the paternal authority of the Sultan. Palmerston believed the Sultan would see that no state was secure—even when it was supported by large and powerful armies—unless it had the good will and attachment of its people, and that this could be obtained in no other way than through the exercise of justice and kindness. The English Minister further explained that a good army and an efficient fleet were needed for protection in a nation, but good armies and fleets could not be maintained without a good revenue, and to secure a good revenue without imposing too heavy a burden on the people it was necessary to have a good financial administration. The Sultan would no doubt feel the necessity of attending to these things, and by so doing would again raise the Turkish Empire to a high pitch of power and glory among the first rate states of the world.[1]

In a dispatch dated 1 April 1841, the Foreign Secretary repeated his instructions to Ponsonby about the support of Reshid against reactionary intrigues at Constantinople. The removal of Reshid at that time, Palmerston thought, would be an event very much to be regretted. The Reis Effendi was "understood" to have been the principal author of the Hatti Scherif of Gulhané and seemed to be the person most likely to have the will and means for its faithful execution throughout the Ottoman Empire—a

[1] Palmerston to Ponsonby, "Separate and secret," 24 Mch. 1841, Public Record Office MSS., F.O. 78/427.

task which the British Government well knew was one of more difficulty and would require more time than many people might be disposed to think.[1] Again on 21 April Ponsonby was instructed earnestly to exhort the Turkish Government to cause the new laws for the improvement of various branches in the Turkish administration to be rigidly and impartially executed in every province of the Empire.[2] Also in May he was directed to warn the Porte in the strongest manner that in order to keep the Sultan's provinces together the Turkish Government must render all its subject races and religious groups contented, and that this could not be done unless all obtained protection for their persons and property against every vexation and oppression on the part of the Government authorities or of any portion of the Ottoman population.[3] Finally in June 1841, after reports had reached London revealing that the Turkish Pashas had not abstained from their former exactions and that the subjects of the Porte were no better off than they had been before the promulgation of the Tanzimat, Palmerston instructed Ponsonby to urge again upon the Turkish ministers the necessity of reform. If the abuses of the Sultan's administration were allowed to continue, the English Foreign Secretary declared, Turkey would lose the sympathies of Europe and this must end in the destruction of the Ottoman Empire.[4] All these appeals in support of Reshid and favouring the faithful execution of his administrative reforms seemed to produce little or no effect at Constantinople; but in July 1841 Palmerston at least had the satisfaction of learning that Mustapha Pasha of Nissa, one of the most unenlightened and tyrannical governors in the Sultan's employ, had been dismissed in deference to British opinion.[5]

[1] Palmerston to Ponsonby, No. 64, 1 Apr. 1841, *ibid.*
[2] Palmerston to Ponsonby, No. 92, 21 Apr. 1841, *ibid.*, F.O. 78/428.
[3] Palmerston to Ponsonby, No. 116, 11 May 1841, *ibid.*
[4] Palmerston to Ponsonby, No. 131, 2 June 1841, *ibid.*
[5] Palmerston to Chekib, 15, 20 July 1841, Chekib to Palmerston, 15 July 1841, *ibid.*, F.O. 78/463.

In addition to measures for the improvement of the general military and administrative efficiency of Turkey, Palmerston, during the crisis of 1839–1841, championed special concessions of reform to limited areas and to particular racial groups within the Sultan's domains. Holding that the honour of the British crown as well as the interests of the Sultan were at stake, late in 1840 he urged the recall of Izzet Pasha whom the Porte had selected for a post in Syria.[1] The Turkish Government promptly recalled Izzet and then Palmerston explained that as the Syrians had been urged by British authorities to take up arms for the Sultan against Mehemet Ali it was "peculiarly incumbent" on the British Cabinet to favour such arrangements for the Government of Syria as might secure its people from oppression and render them contented and prosperous. Her Majesty's Government was not sufficiently conversant with the internal affairs of Turkey to be able to say what specific measures should be adopted. It had been suggested that the important seaports of the Lebanon district—Beyrout and Latakia—should be added to the territory of the Druses, but there might be doubts whether such an arrangement would be politic or whether it would not be better for the Sultan to retain these seaport towns more directly under his own control.[2]

In the summer of 1841 reports of unrest in Syria revealed clearly that the local Turkish administration which the Porte had organised in its customary manner in that country after the expulsion of the Egyptians had failed to win the approval of the Syrians. At Damascus, Nezib Pasha was said to have ordered that no Christian should be permitted to enter the city on horseback or to wear within its limits clothing of a light or gay colour. Ponsonby believed that even the Reis Effendi was partly responsible for this state of affairs, and in a private letter which he

[1] Palmerston to Ponsonby, No. 227, 9 Nov. 1840, Public Record Office MSS., F.O. 78/391.

[2] Palmerston to Ponsonby, No. 266, 12 Dec. 1840, *ibid.*

wrote to Palmerston after Reshid had resigned from office at Constantinople he declared: "I *am furious* against Reshid Pasha who seems on all occasions to have selected the greatest scoundrels in the Empire for employment in the offices of trust and power. He is a fool." [1]

Aroused by such reports as these Palmerston repeatedly urged through Ponsonby and through the Turkish Ambassador in London that the Porte should remove Nezib from his position as Pasha at Damascus, and satisfy the demands of the Maronites for reform in taxation, while in general it should take "effectual measures" to protect the Christians of Syria against the "tyrannical proceedings" of their Moslem rulers.[2] Furthermore, he frankly informed Chekib Pasha on one occasion that the British Cabinet could not doubt but the enlightened sense of justice which directed the councils of the Sultan would lead him "without a moment's delay to take the necessary measures for preventing the Muftis in Syria from acting upon the obsolete and antiquated doctrine" laid down by one of their number who refused to admit the evidence of Christians against Moslems in his court.[3]

While posing as a friend of the Christian population of Syria the British Government endeavoured to avoid offending the Druses. Ponsonby suggested in March 1840, that it might be "useful and easy" to obtain from the Porte the acknowledgment of certain rights which the Druses enjoyed *de facto* if not *de jure*.[4] Palmerston soon replied, instructing the Ambassador to urge the Porte

[1] Ponsonby to Palmerston [Private], 23 May 1841, *ibid.*, F.O. 78/434.

[2] Palmerston to Ponsonby, Nos. 139 and 145, 8 and 11 June, 1841, *ibid.*, F.O. 78/428; Palmerston to Ponsonby, Nos. 175 and 181, 15 and 20 July 1841, *ibid.*, F.O. 78/429; Palmerston to Chekib, 15 June, 2, 10 July, 9 Aug. 1841, *ibid.*, F.O. 78/463. Early in June, 1841, Ponsonby and the Austrian and Russian representatives at Constantinople agreed to a plan collectively to urge the Porte to reform its administration in Syria. Cf. Ponsonby to Palmerston, No. 191, 8 June 1841, *ibid.*, F.O. 78/434.

[3] Palmerston to Chekib, 9 Aug. 1841, *ibid.*, F.O. 78/463.

[4] Ponsonby to Palmerston, No. 47, "Secret," 3 Mch. 1840, *ibid.* F.O. 78/392.

" at the proper time " to give to the Druses such privileges and exemptions as might satisfy their " reasonable desires," and in 1841, on the eve of his retirement from public office, he refused to appoint Richard Wood Consul-General of Syria because Wood was a Roman Catholic and would be regarded by the Druses as a partisan favouring their enemies the Maronites. The Maronites, Palmerston thought, would always through their priests " lean upon France rather than upon England." But there might be established among the Druses " an influence useful to England and serviceable to the Porte." [1] Moreover, Palmerston gave a friendly reply to advances which the Druse chiefs had made through the English Colonel Rose for some connection with Great Britain. The Foreign Secretary stated in that reply that the British Government's object and intention would be to exert its " good offices " and its " just influence " to prevent differences between the Druses and the Sultan which might loosen the bonds that " ought to exist between a sovereign and his subjects." He stated also that the British Government, with due appreciation of the many fine qualities of the Druse nation, approved their wish to establish some good system of education for their children.[2] Finally, late in July 1841, Palmerston announced that an English clergyman would be sent to the Druse country to seek employment as a teacher, and he suggested that others might be selected to follow this pioneer if the Druses chose to employ them.[3]

A second limited area within the Ottoman Empire for which Palmerston championed special concessions of reform during the crisis of 1839–1841 was the Island of Crete. Then in fact a favourite plan of his was to obtain for the Candiotes privileges and institutions of self-government similar to those which had been conferred at an earlier

[1] Palmerston to Ponsonby, No. 61, 21 Apr. 1840, Public Record Office MSS., F.O. 78/389; Memorandum by Palmerston, " Confidential," 16 Aug. 1841, *ibid.*, F.O. 78/429.

[2] Palmerston to Rose, No. 8, 15 July 1841, *ibid.*, F.O. 78/454.

[3] Palmerston to Rose, No. 11, 26 July 1841, *ibid.*

date by Sultan Mahmoud upon the inhabitants of the Island of Samos.[1] During the first part of the crisis he did not strongly urge the adoption of this plan, for he knew that Ponsonby as well as Reshid regarded it as impracticable.[2] But in April 1841, after the direct authority of the Sultan under the Treaty of July 1840 had replaced the rule of Mehemet Ali in Crete and reports indicated that an insurrection had broken out among the natives of the island, the British Ambassador advised the Porte to remove the Pasha of Candia, who was evidently not trustworthy; to cause the Hatti Scherif of Gulhané to be immediately proclaimed in Crete; "and then to grant to the inhabitants some form of local government similar in principle to that established in Samos, in which . . . Greeks and Turks should be equally eligible as members of the local councils." [3] About the same time the British Consul in Crete exerted his influence to persuade the Cretans to remain loyal to their sovereign, trusting that the Porte upon the recommendation of its allies would take measures to safeguard the people of the island against the oppression of Turkish officials.[4]

During the brief period of this insurrection among the Candiotes Palmerston became so much concerned about the Cretan question that he made it the subject of repeated dispatches to both Ponsonby and Ongley.[5] In July 1841, after Ponsonby had offered excuses for not obeying some of his instructions in regard to Crete, Palmerston restated his position on the question in emphatic terms. The events which had occurred in Crete since he had forwarded instructions, he wrote to the Ambassador, did not lead

[1] Palmerston to Ponsonby, No. 152, 21 Oct. 1839, *ibid.*, F.O. 78/353.

[2] Ponsonby to Palmerston, No. 323, 30 Nov. 1839, *ibid.*, F.O. 78/360; Palmerston to Ponsonby, No. 151, 31 Aug. 1840, *ibid.*, F.O 78/390.

[3] Palmerston to Ponsonby, No. 80, 16 Apr. 1841, *ibid.*, F.O. 78/427; Palmerston to Ponsonby, No. 88, 19 Apr. 1841, *ibid.*, F.O. 78/428.

[4] Palmerston to Ongley, 17 Apr. 1841, *ibid.*, F.O. 78/450.

[5] Palmerston to Ponsonby, Nos. 134 and 162, 4 and 26 June 1841, *ibid.*, F.O. 78/428; Palmerston to Ongley, Nos. 2 and 3, 18 May, 25 June 1841, *ibid.*, F.O. 78/450.

him to retract his advice for the Sultan. Instead those developments led him to think that the advice was more expedient and necessary than it had been when it was first suggested. He admitted that Ponsonby and the Porte must be in a better position than he could be in to chalk out the details of the arrangement which should be made for Crete. He even conceded that institutions like those in Samos might not be entirely suitable for the larger island. What he considered as absolutely necessary in order to induce the Candiotes to be obedient to their sovereign was that the Sultan should guarantee to them full security for their persons and property. This could be done not by taking privileges from the Turkish population in Crete, which the British Foreign Office had never recommended, but by the effectual abolition of political distinction between the Turks and the Greeks and by admitting Greeks as well as Turks—in fair proportion according to their wealth and numbers—to the local councils which were to be established on the island for the management of local affairs. Palmerston believed that if the Porte managed by an arrangement to take away all excuse for disobedience on the part of its discontented subjects it might expect to see Crete pacified, but if it imagined force alone would attain that object it would be disappointed.[1]

Late in August 1841, after the termination of the Cretan revolt had been announced, Palmerston rejoiced to learn that the Ottoman Government was disposed to give to the Candiotes " protection and security " for the future. On the same occasion he directed that the Porte should be urged to establish equality of taxation between the Moslems and the Christians of Crete, and he declared that such a measure was " indispensably necessary, not only in Candia, but in every other part of the Ottoman Empire " ; without

[1] Palmerston to Ponsonby, No. 185, 23 July 1841, Public Record Office MSS., F.O. 78/429; Ponsonby to Palmerston, No. 179, 26 May 1841, *ibid.*, F.O. 78/434; Ponsonby to Palmerston, No. 217, 23 June 1841, *ibid.*, F.O. 78/435.

it the Porte could "never expect to see permanent tranquillity established in the Sultan's dominions." [1]

The Jews of Palestine constituted another element in the Ottoman Empire whose special interests in reform were championed by the British Foreign Secretary between 1839 and 1841. At the opening of the period arrangements were being made to send an Englishman named Young as vice-consul to Jerusalem, and it was stated in his instructions that one of his duties would be to afford protection to the Hebrews of the Holy Land. Also he was instructed to report to Palmerston at an early date on the state of the Jewish population within the territory of his consular jurisdiction.[2] Consequently in May 1839, Young forwarded to the Foreign Office a report indicating that the Hebrews of Palestine numbered about 9,690; that they were very poor and dependent to an extent upon contributions from Europe; and that they were oppressed as an inferior race.[3] Before the close of the year 1839 the English vice-consul at Jerusalem was assured of the support of his Government, although Campbell, the British Consul-General in Egypt, had complained that Young was "'granting protection in an indiscriminate and inconsiderate manner to all Jews.'" [4] Furthermore in May 1840, Palmerston protested vigorously to the Porte and to Mehemet Ali against the persecution of Jews at Damascus and on the Island of Rhodes, and he granted the special protection of the British Government to a Jewish delegation which Hebrews in London dispatched to the East to investigate the circumstances that had led to the persecution of their fellow Israelites.[5] Indeed, in an important dispatch

[1] Palmerston to Ponsonby, No. 222, 26 Aug. 1841, *ibid.*, F.O. 78/429.

[2] Bidwell to Young, No. 2, 31 Jan. 1839, *ibid.*, F.O. 78/368.

[3] Young to Palmerston, No. 13, 25 May 1839, *ibid.*

[4] Young to Palmerston, No. 25, 13 Aug. 1839, Backhouse to Young, No. 8, 23 Nov. 1839, *ibid.*

[5] Palmerston to Ponsonby, Nos. 62, 80 and "Separate," 5, 30 May, 27 June 1840, *ibid.*, F.O. 78/389; Palmerston to Wilkinson, 23 May, 29 Aug. 1840, *ibid.*, F.O. 78/413; Palmerston to Consuls in Levant, 27 June 1840, *ibid.*, F.O. 78/416. The Archbishop of Canterbury and

of 11 August 1840, a plan was communicated for the Porte's consideration to settle Jews in Palestine which foreshadowed very directly the Zionist movement of later times.

Palmerston followed up this important dispatch to Ponsonby with another suggesting that Jews should be permitted to transmit through British consular authorities and the British embassy at Constantinople any complaints which they might wish to make to the Porte against Turkish officials in Palestine.[1] Indeed, the British Foreign Minister proposed such extensive concessions to the Hebrews of the Holy Land that the Porte refused to grant them, and Ponsonby upheld the Porte in its refusal. The Ottoman ministers and the British representative at Constantinople agreed that the Sultan should not grant more than the right of all his subjects to secure redress through direct appeal to the Porte.[2]

Regardless of the opposition of Ponsonby and the Turks, Palmerston continued for a time to advocate special reforms for the Jewish inhabitants of Palestine. He explained early in 1841 that if the Porte persisted in its refusal to adopt his suggestions Ponsonby might propose a limited concession of the right of the Hebrews to transmit complaints through British officials for a period of twenty years.[3] To this Ponsonby replied in March 1841, stating he was unable to see what additional security could be given to the Jews, or what other inducements the Sultan could offer to them for settlement in Palestine than security for persons and property, and the enjoyment of equal rights with every other class of inhabitants in the Ottoman Empire. It might in fact be inconvenient to the

the Commission of the General Assembly of the Church of Scotland urged the British Government on this occasion to defend the persecuted Hebrews in Damascus and Rhodes. Cf. Palmerston to Ponsonby, Nos. 248, 251 and 278, 24, 25 Nov., 22 Dec. 1840, Public Record Office MSS., F.O. 78/391.

[1] Palmerston to Ponsonby, No. 248, 24 Nov. 1840, *ibid.*

[2] Ponsonby to Palmerston, Nos. 19 and 29, 21 Jan., 1 Feb. 1841, *ibid.*, F.O. 78/430.

[3] Palmerston to Ponsonby, No. 33, 17 Feb. 1841, *ibid.*, F.O. 78/427.

Porte and not advantageous to the Jews to give them special immunities. Such immunities would probably be abused, and would certainly excite demands that could not be granted to others.[1] After Palmerston received this reply he made no further moves to obtain special concessions for the Hebrews of the Holy Land, but he did not modify his instructions to the vice-consul at Jerusalem, and just before he resigned from the British Foreign Office in 1841 he announced that a bishop of the Church of England would be sent to the ancient capital of Judæa to look after British ecclesiastical interests there.[2]

While Palmerston favoured the granting of special guarantees of justice and of good government to the inhabitants of Syria, Crete, and Palestine in 1839–1841 he continuously emphasised that the power of the Sultan should not be compromised in any part of his extensive empire. Care should be taken, he wrote to Ponsonby in December 1840, to make such arrangements as would protect the people of Egypt from a continuance of the tyrannical oppression by which they had been crushed, and as should secure the Sultan against a renewed attack by Mehemet Ali. According to the British Foreign Secretary's opinion, the basis for such arrangements was to be found in the stipulations of the Treaty of 15 July 1840. Under those stipulations the Sultan would "be able, by an exercise of his legislative authority, to establish unity of flag and of military and naval uniform throughout all his provinces; to limit the number of troops which each province should, according to its population, maintain; to regulate the mode of enforcing the conscription so as to protect the people from undue burdens and oppressive levies; to fix the number and class of ships of war" which should belong to the several naval ports of his dominions; to fix the manner in which military and naval commissions

[1] Ponsonby to Palmerston, No. 113, 27 Mch. 1841, *ibid.*, F.O. 78/432.

[2] Palmerston to Ponsonby, Nos. 187, 210, and 227 "Confidential," 26 July, 16, 27 Aug. 1841, *ibid.*, F.O. 78/429.

should be granted in his name and by his authority; and to determine that a single monetary system should prevail throughout all his territories. The Treaty of July specified that none but the legal imposts of the Sultan should be levied in Egypt. This should secure the people under Mehemet Ali from undue exactions; and the execution of the Anglo-Turkish Commercial Convention of 1838, by which all monopolies were to be abolished in the Ottoman Empire, would at once free the industry of Egypt from those oppressive restrictions which had hitherto kept the great mass of the Egyptian population in the most abject poverty.[1] At a later date Palmerston approved the Sultan's firman of 13 February 1841, which would have imposed important limitations upon the power of the Pasha of Egypt if it had been executed, and he expressed regrets to Commodore Napier because that officer had not advised Mehemet Ali to acquiesce in the proposed arrangement.[2] Also in June 1841, after the English Foreign Secretary had been informed about attempts to excite disturbances in the neighbourhood of Salonica, he notified the Admiralty that some British ships of war should be dispatched to the Ægean with a view to support the authority of the Sultan and to put a stop to any piratical proceedings in that quarter.[3]

Eager though Palmerston was to defend the power of the Sultan and to further the rejuvenation of Turkey he refused to grant such practical assistance as the Porte wished to obtain on at least two occasions during the crisis of 1839–1841. In May 1841, the Reis Effendi Rifaat Pasha privately informed Ponsonby that he wished a clause guaranteeing the integrity and independence of the Ottoman Empire would be added to the Straits Convention which had been initialed in March 1841, but still

[1] Palmerston to Ponsonby, No. 270, 17 Dec. 1840, Public Record Office MSS., F.O. 78/391.

[2] Palmerston to Napier, 11 Mch. 1841, *ibid.*, F.O. 78/461.

[3] Palmerston to Admiralty, 26 June 1841, *ibid.*, F.O. 78/467.

remained formally unsigned.[1] According to Palmerston's opinion such a clause could not be adopted because it had been clearly understood that there would be no change in the terms of the convention for the closure of the Straits without the consent of all parties that were directly involved in it, and some were sure to object to the Reis Effendi's proposal. Moreover, the proposed clause—provided it was adopted—would probably not have the effect which Rifaat expected. If either France or Russia wished to interfere in Ottoman affairs, and if Turkey was weak, they would be able to find some pretext for doing so regardless of stipulations for the defence of the Sultan's dominions.[2]

Similarly during the crisis of 1839–1841 Palmerston refused to grant a type of practical assistance which a group of English bankers sought in the negotiation of a loan to the Porte. In December 1839, Ponsonby informed his superior that the Ottoman Government wished to borrow £2,000,000 and hoped "to find facilities for it" through the friendly aid of Great Britain. Certain bankers, it was believed on that occasion, would advance the sum which the Porte desired on the security of Ottoman copper mines provided the British Government would guarantee the investment. According to Ponsonby's opinion the loan was necessary for the execution of the Hatti Scherif of Gulhané and the abolition of monopolies.[3] It would be "highly useful," he thought, "and not subject to much abuse."[4] Apparently the only alternative which the Porte had considered seriously was a project for the issuance of paper money. Believing that that project "would produce such confusion and such robbery and such distress amongst the people as would bring about a revolution" Ponsonby eagerly favoured the negotiation of the loan. "There is at present," he wrote in April 1840, "a great

[1] Ponsonby to Palmerston, "Separate and confidential," 20 May 1841, *ibid.*, F.O. 78/433.

[2] Palmerston to Ponsonby, No. 147, 15 June 1841, *ibid.*, F.O. 78/428.

[3] Ponsonby to Palmerston, No. 336, 18 Dec. 1839, *ibid.*, F.O. 78/360.

[4] Ponsonby to Palmerston, No. 45, 27 Feb. 1840, *ibid.*, F.O. 78/392.

want of money in consequence of the alterations that have been made for the benefit of the people, and it would be fortunate if a loan could be made. I doubt if any Government can give better security to lenders." [1] Finally in September 1840, the British Ambassador at Constantinople reported that he had assisted a Mr. Bourjot, the representative of certain bankers in London, to arrange details for a loan to the Porte.[2]

This loan, as explained to Palmerston by Timothy Curtis, one of the bankers, was to be for £3,000,000 and was to be secured by a mortgage on the customs of Constantinople, Salonica, and Smyrna. In case of default the Porte was to allow the contractors of the loan to appoint persons who would receive the customs and apply the proceeds to the payment of "dividends" and to the establishment of a "sinking fund of one per cent." Curtis further explained that he had found there was "not that confidence in the Turkish Government that would induce capitalists to lend their money without some guarantee as to the payment of dividends." He was aware that the British Government would not guarantee the financial obligations of foreign Governments; but as the power to enforce the payment of dividends from the revenue of customs would be altogether a nullity in the hands of an individual, it had occurred to him that the British Government might through a special treaty with the Porte gain the power to interfere in Turkey if called upon by the contractors in a case of default. Upon this part of the subject the Rothschilds whom Curtis had consulted were "quite decided," and as he considered that they were "the only persons who could efficiently and successfully carry such a loan through," he trusted Palmerston would "not see any great difficulty in making such an arrangement."

[1] Ponsonby to Palmerston, No. 76, 14 Apr. 1840, Public Record Office MSS., F.O. 78/393.

[2] Ponsonby to Palmerston, Nos. 214, 219 and [Private], 20, 26 and 27 Sept. 1840, *ibid.*, F.O. 78/397.

The Foreign Secretary approved of Ponsonby's opposition to paper money in Turkey.[1] He even approved of the assistance whch the Ambassador gave to Bourjot in the arrangement of details for a loan to the Porte.[2] However, he definitely refused to promise that Her Majesty's Government would guarantee a Turkish loan. On 30 December 1840, he wrote confidentially to Ponsonby at length on this subject.[3] In truth, Palmerston not only refused to involve the British Government in a guarantee of a Turkish loan, but even insisted that the Porte should pay for the arms and ammunition which British agents distributed among the Syrian insurgents during the war with Mehemet Ali in 1840.[4] The British Foreign Secretary must have foreseen that the Sultan and his ministers might squander moneys which could be obtained easily from abroad, that international complications would arise if Her Majesty's Government attempted to intervene in the affairs of the Levant to safeguard the interests of British

[1] Palmerston to Ponsonby, No. 46, 31 Mch. 1840, *ibid.*, F.O. 78/389.

[2] Palmerston to Ponsonby, No. 189, 10 Oct. 1840, *ibid.*, F.O. 78/390.

[3] Palmerston to Ponsonby, No. 279, "Confidential," 30 Dec. 1840, *ibid.*, F.O. 78/391. Also in the period between 1839 and 1841, British capitalists headed by the House of Reed, Irving and Company were interested in the reform of Turkey's monetary system and in the establishment of an Ottoman National Bank. Their projects were supported by Ponsonby and by Sandison, a British consular agent in the Levant, both of whom acted without specific instructions on this matter from Palmerston. The Porte, besieged similarly by a group of French capitalists under the leadership of M. Coste, managed to avoid committing itself definitely upon the projects of either party. Cf. Ponsonby to Palmerston, "Confidential," "Separate and confidential," and [Private], 22, 30 July 1840, *ibid.*, F.O. 78/395; Coste to Ahmed Fethi, 18 Sept. 1840, *ibid.*, F.O. 78/397; Irving's Memorandum, 26 Sept, 1840, *ibid.*, F.O. 78/422; Ponsonby to Palmerston Nos. 125 and 166, 6 Apr., 17 May 1841, *ibid.*, F.O. 78/33; Irving's Memorandum, 6 Mch. 1841, *ibid.*, F.O. 78/465.

[4] Palmerston to Ponsonby, Nos. 225 and 281, 5 Nov., 30 Dec. 1840, *ibid.*, F.O. 78/391; Palmerston to Ponsonby, Nos. 19 and 35, 29 Jan., 18 Feb., 1841, *ibid.*, F.O. 78/427. The Porte agreed to pay for these military supplies, and beginning late in the year 1841, made advances in small instalments upon them. Cf. Ponsonby to Palmerston, No. 91, 9 Mch. 1841, *ibid.*, F.O. 78/432; Ponsonby to Palmerston, No. 143, 27 Apr. 1841, *ibid.*, F.O. 78/433; Bankhead to Aberdeen, Nos. 40, 56 and 67, 10 Nov., 1 and 24 Dec. 1841, *ibid.*, F.O. 78/438; F.O. to Treasury, 25 Oct., 9 and 21 Nov. 1842, *ibid.*, F.O. 78/512.

investors, and that such developments as these would not promote Ottoman rejuvenation. Palmerston's policy for the rejuvenation of Turkey was comprehensive—it was designed to encourage all types of reform which might contribute directly to the strengthening of the Ottoman Empire as an independent State and as an essential element in the European balance of power—but it did not involve the financing of Turkish reorganisation entirely at British expense.

Perhaps the attempts which Palmerston made to further Turkish reform before he withdrew from office in 1841 have received scant attention in historical study heretofore chiefly because of a factor which must now be taken into account. Despite his efforts to encourage Turkish reform, the Ottoman State remained essentially as unprogressive when Palmerston was replaced by Aberdeen in the British Foreign Office as it had been in 1839. In fact by 1841 a reaction against innovations and western ideas had gained the centre of the stage throughout the Sultan's dominions.[1] Again in May 1841 Ponsonby declared that fiscal oppressions throughout the Ottoman Empire had been grievously aggravated by new regulations and were the real cause of the discontent and outbreaks in Turkey against the authority of the Sultan.[2]

After Stratford Canning succeeded Ponsonby as British Ambassador at Constantinople he also drew a discouraging picture of the prospect for reform in the Ottoman Empire. In March 1842 he called attention to evidences of an anti-Christian policy, of misgovernment, of a jealous impatience of foreign instruction and of an attachment to old abuses. He believed Reshid's reform had been "too rapid and inconsiderate" and he was convinced that unless "the means of giving another direction" were speedily found and effectively applied, "the most serious, and perhaps

[1] Ponsonby to Palmerston, No. 103, 17 Mch. 1841, Public Record Office MSS., F.O. 78/432.

[2] Ponsonby to Palmerston, No. 159, 11 May, 1841, *ibid.*, F.O. 78/433.

irremediable mischief" would ensue.[1] This view was elaborated in a memorandum enclosed with the dispatch in which these ideas were set forth, while Stratford Canning's view of the Turkish question in December 1843 was even more discouraging.

Although abundant evidence reveals clearly that Palmerston's programme for the rejuvenation of Turkey produced no great and permanent changes in the Ottoman system either before or immediately after its author withdrew from office in 1841, it must be conceded that that programme served as a fundamental element in Great Britain's policy for the preservation of the Ottoman Empire —a policy which Her Majesty's Government pursued quite consistently at least until the time of the Near Eastern Crisis of 1875–1878. Canning, it is true, urged the adoption of a "decided line of policy" by Great Britain in defence of Turkey so early as 1832.[2] However, it was Palmerston, and not Canning, who first elaborated a definite programme for the establishment of that policy and who proceeded to carry it into effect. Furthermore, the period of the development of Palmerston's programme for Turkey was no other than the one between 1833 and 1841. It was then that the British Government for the first time in its history sent official missions to Turkey to promote directly the reorganisation of the Sultan's military and naval forces, that it encouraged the promulgation and faithful execution throughout the Ottoman dominions of a great charter of liberties in which all of the Sultan's subjects were recognised as equals before the law, and that it sponsored various lesser reforms which were designed to round out a programme for the rejuvenation of the extensive Turkish State. Indeed the instructions which Aberdeen prepared for Stratford Canning when the "Great Ambassador" returned to Turkey in 1841 contained little more than a recapitulation and endorsement of the many details of British policy in

[1] Canning to Aberdeen, No. 67, 27 Mch. 1842, *ibid.*, F.O. 78/476.
[2] Lane-Poole, *Life of Stratford Canning*, II, pp. 76–78 (London, 1888).

the Levant developed by Palmerston during the previous eight years.[1] In so far as the British Government was responsible for the reaction against reform which triumphed in Turkey in 1841 it was responsible because it had encouraged the Porte to go too far rather than not far enough on the road to reform and reorganisation. Also it should be remembered that the period of reaction in the Ottoman Empire did not end with Stratford Canning's arrival at the Turkish capital near the close of 1841, but continued during the early years of his administration and reached its most alarming proportions perhaps, as his dispatches seem eloquently to indicate, about the close of 1843. Consequently Lane-Poole's statement about British policy in the Levant during the period 1833–1841 should be received with caution, and Palmerston should be given credit for the elaboration of the details of the first definite programme which served as a fundamental element in Great Britain's policy for the preservation of Turkey in the nineteenth century. This means that Palmerston should be given this credit provided it is due to the author of a policy for the rejuvenation of an empire whose population included numerous incongruous elements and whose doom might seem to have been sealed by the rising tide of nationalism.

[1] Lane-Poole, *op. cit.*, p. 79; Aberdeen to Canning, No. 2, 30 Oct. 1841, Public Record Office MSS., F.O. 78/439.

NOTE.—The material for this essay was gathered while the writer was serving as Fellow of the Social Science Research Council of the U.S.A.

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## REPORT OF THE COUNCIL. SESSION 1927–1928

The Council of the Royal Historical Society have the honour of presenting their Annual Report to the General Meeting of the Fellows as follows :—

With much regret the Council have to announce the deaths of the following distinguished Fellows.

Professor C. W. Alvord, formerly professor of History in the University of Illinois and Minnesota. As author of *The Mississippi Valley in British Politics* and managing editor of *The Mississippi Valley Historical Review*, he had a strong influence in promoting historical study and research in the Middle West.

F. Elrington Ball, author of *The History of the County of Dublin* and *The History of the Judges of Ireland* and of other works on Irish History.

Professor J. S. Bassett, formerly professor of American History in Smith College, Massachusetts, and secretary of the American Historical Association. He was the author of numerous works dealing with the history of the United States, including a Life of Andrew Jackson.

Professor H. W. Carless Davis, Regius Professor of History in the University of Oxford, editor of *Regesta Regum Anglo-Normannorum* and author of many contributions to both mediæval and modern history. His career of great performance and of still greater promise was cut short by a too early death.

U. Lambert, author of *The History of Blechingley*, a local history on a monumental scale.

Sir Harry Poland, K.C., the veteran Treasury Counsel and Essayist on the English Criminal Law. He was a generous benefactor to the Society by gifts of books, and contributed an interesting paper on Canning's Rhyming Despatch to our *Transactions*.

H. C. Sotheran, the well-known bookseller, a Fellow of very long standing.

The Rt. Hon. Sir G. O. Trevelyan, Bt., nephew to Lord Macaulay, famous as man of letters, historian and politician. He was for twenty-four years an Honorary Vice-President of our Society.

R. J. Whitwell, who collaborated with Prof. Davis in editing *Regesta Regum Anglo-Normannorum* and wrote on the Italian bankers in thirteenth-century England, did much unobtrusive work on Anglo-Norman history.

E. Murray Wrong, Fellow and Tutor of Magdalen College, Oxford, and author of *Charles Buller and Responsible Government.*

Edward Armstrong was formerly a Fellow of the Society. He was an authority on the History of the Renaissance period and on the wars of religion in France.

The historical world was made poorer in the course of the year by the death of J. H. Round. He was not a Fellow of the Society, but his death is a loss to history which the Council feels should not pass without notice.

The rooms of the Society have been used for Meetings by the British Archæological Association, the Canterbury and York Society, the Central London Branch of the Historical Association, the Huguenot Society, the Japan Society, the Jersey Society, the Lingard Society, and the Royal Numismatic Society.

On Wednesday, July 17, the Society gave a Garden Party, the Square garden being thrown open by the courtesy of the Commissioners. In the house Miss Helen Farquhar, F.R.Hist.S., kindly exhibited a collection of Stuart medals. The thanks of the Society are due to her for not only exhibiting but explaining them. There were also on exhibition Mr. Spackman's wood-cuts, chiefly of South Welsh Castles, presented by him to the Society, and our own MSS.

The Sixtieth Anniversary of the foundation of the Society was celebrated by a dinner at the Holborn Restaurant on December 7.

The Society was represented at the International Historical Congress at Oslo by J. F. Chance, M.A., and Charles Johnson, M.A., F.S.A.

The Society was represented by W. Miller, M.A., at the centenary celebrations of Captain Frank Abney Hastings, notable in the history of the Liberation of Greece, held at Mesolonghi, Paros and Athens.

A grant of fifteen guineas has been sanctioned to the expenses of the British National Committee of the International Congress, and V. H. Galbraith, M.A., and Sir Richard Lodge, LL.D., Litt.D., have been appointed by the Society as members of that committee.

The Royal Commission on National Museums and Galleries requested the views of the Society upon several points connected with the custody and exhibition of the contents of such galleries, and the Council made certain representations to the committee which will be found in the printed minutes of evidence.

At the Annual General Meeting in February a motion was proposed by Charles Johnson, Hon. Treasurer, and seconded by Professor Stenton, upon the sale of publications to the general public, and was carried by vote of the Fellows. It was in the following terms: "That if the sale of 100 copies of any work to be issued by the Society is guaranteed by the book-trade, the Society will be prepared to place it on the market at a price in excess of the price to Fellows."

The attention of the Society was drawn to a decree of the King of Spain which seemed to interfere with the copying of Spanish Archives by foreigners. The Council made representations to our Corresponding Member in

Spain, the Marquess Villa Urrutia. It is hoped that existing facilities may not be interfered with seriously.

The President of the Society from time to time has become, *ex officio*, a Member of the Committee appointed to safeguard the vote-controlling shares of the *Spectator*, so as to preserve the traditional independence of the Journal from party obligations.

The Library has been enriched by the usual exchanges, by many generous gifts, among which Mr. Chance's continued presentations of the Egyptian Exploration volumes may be specially mentioned. Several important purchases have been made, including the Exeter Episcopal Registers, the Documentary History of New York, and the current volumes of the Selden Society, which were presented up till now by the late Sir Harry Poland. Exchanges have been arranged with the Thoroton Society, Nottingham, *Revue Bénédictine*, and the Académie des Sciences Ukrainiennes. The Exchange has lapsed with the *Revue des Etudes Napoléoniennes*, which has ceased to publish.

Before the War, Committees of our Society, and of the American Historical Association, undertook the preparation of a Bibliography of British History, from 1485 onwards. The volume dealing with the Stuarts, 1603–1714, for which our Committee was responsible, has been completed. Copies are obtainable by Fellows of the Society, and by our Subscribing Libraries, at a reduced rate, 16*s.* 6*d.*, on application to the Secretary. The volume is published by the Oxford University Press. The warm thanks of the Society are offered to the editor, Mr. Godfrey Davies, and to Sir Charles Firth, by whose advice the Editor was assisted.

A special Committee was appointed to consider the preparation of a list of British Diplomatic Agents, 1648–1852. This was to meet the views of the Committee of the International Historical Congress. The volume is in

preparation, and will ultimately be issued as one of the Camden Series.

In the personnel of the Vice-Presidents and Council the following changes have been made.

Sir Charles W. C. Oman, M.P., LL.D., F.S.A., F.B.A., R. L. Poole, LL.D., Litt.D., F.B.A., have been elected Honorary Vice-Presidents.

The Vice-Presidents retiring under By-Law XVII were the Rev. Professor J. P. Whitney, D.D., D.C.L., and R. L. Poole, LL.D., Litt.D., F.B.A. The vacancies were filled by the election of A. G. Little, M.A., D.Litt., F.B.A., Miss E. C. Lodge, M.A., D.Litt., and A. E. Stamp, M.A.

The Members of Council retiring under By-Law XVII were R. A. Roberts, H. W. V. Temperley, O.B.E., Litt.D., F.B.A., G. N. Clark, M.A., the Rev. Canon Foster, M.A., F.S.A., and Professor Geoffrey Callender, M.A., F.S.A. The vacancies were filled by the election of V. H. Galbraith, M.A., Professor J. E. Neale, M.A., Miss Lillian Penson, M.A., Ph.D., W. G. Perrin, O.B.E., and F. J. E. Raby, M.A., F.S.A.

P. W. Chandler, F.S.A., and W. Page, F.S.A., have been elected Auditors for the Fellows; J. F. Chance, M.A., for the Council. The thanks of the Society were offered to A. F. Sieveking, F.S.A., who has felt obliged to retire from a long period of service as auditor for the Fellows.

The following Papers were read in the course of the Session of 1927–1928:—

English Historical Costume. By Mrs. C. H. Ashdown, F.R.Hist.S. (November 10, 1927.)

Polydore Vergil's Will. By E. A. Whitney, Ph.D., and T. P. Cram, Ph.D., of Harvard University. (December 8, 1927.)

The Merchant Adventurers of Bristol in the Fifteenth Century. By Miss E. M. Carus-Wilson, M.A. (January 12, 1928.)

The Historical Student and the Public Record Office: a Retrospect. By A. E. Stamp, M.A., V.P. R.Hist.S., Deputy-Keeper of the Public Records. (March 8, 1928.)

Anglo-Russian relations during the first English Revolution. By Madame Inna Lubimenko, D. ès-Lettres. (April 18, 1928.)

The Origins of Parliament. By H. G. Richardson, M.A., B.Sc., F.R.Hist.S. (May 10, 1928.)

The President, Professor T. F. Tout, D.Litt., Litt.D., LL.D., F.B.A., delivered an Address at the Anniversary Meeting on February 9, 1928, on The Human Side of Mediæval Records.

The Alexander Medal was awarded to Miss Gladys A. Thornton, B.A., Ph.D., for an Essay entitled, A Study in the History of Clare, Suffolk, with special reference to its development as a Borough. The essay, presented by H. Das, B.Litt., F.R.Hist.S., on a Mission to the Court of Aurungzeb was highly commended by the Examiners.

With the exception of the first, the above Papers, the President's Address, and the Alexander Essay have been printed in the *Transactions*, Fourth Series, Vol. XI. Mrs. Ashdown's Paper was an interesting and instructive lecture, illustrated by living models wearing reproductions of early costumes copied from brasses and illuminations.

No opportunity occurred for reading the Papers kindly promised by V. T. Harlow, M.A., B.Litt., L. A. Robertson, M.A., B.Litt., and B. R. Leftwich, M.B.E., but they have been included in the Card of the present Session.

In addition to the current volume (Fourth Series, Vol. XII)of *Transactions* the following volumes of the Camden Third Series of publications have been issued since the last Report of the Council.

Vol. XXXIX, *British Diplomatic Instructions*, Vol. V, Sweden, Pt. II, 1727–1789, edited by J. F. Chance, M.A., V.P. R.Hist.S.

Vol. XL, the *Vita Wulfstani* of William of Malmesbury, edited by R. R. Darlington, B.A., F.R.Hist.S.

Vol. XLI, Camden Miscellany, Vol. XV (containing

six original texts edited by different contributors), will be issued early in 1929.

A further volume in this Series (XLII), being Official Notes of Debates in the House of Lords (1626–1628), edited by Professor Frances H. Relf, Ph.D., F.R.Hist.S., of Wells College, Aurora, N.Y., is in the press, supplementing (for the years 1621, 1625 and 1628) the late Dr. S. R. Gardiner's edition of Elsing's *Notes* in the New Series of the Camden Society's publications.

A List of British Diplomatic Agents, compiled under the supervision of a committee of the Council by D. B. Horn, M.A., and an edition of the Chapters of the English Black Monks (1215–1540), by W. A. Pantin, M.A., are in active preparation.

Extensive structural repairs have been necessary at the back of the house. Owing to the foresight of the late Hon. Treasurer, Mr. H. R. Tedder, and of the Hon. Secretary, at the time of granting of the lease, the greater part of the expense has not fallen upon the Society. Some expenditure, however, has been necessary upon repairs and decoration.

By death the Society has lost 21 Fellows; by resignation 7 Fellows; and 4 Fellows have had their names removed from the Roll for non-payment of subscriptions. By election we have gained 32 Fellows and 4 Libraries, and 1 Fellow and 1 Library have been reinstated.

The Secretary reports that the total membership of the Society on October 31, 1928, was 787 Fellows, including Ordinary, Life, Honorary and Corresponding Fellows. There were 258 subscribing Libraries. Of the Fellows, 6 were Honorary, 21 were Corresponding Members and 145 were Life Fellows. There are 63 Societies, British and Foreign, which exchange *Transactions* with the Royal Historical Society.

The Treasurer reports that, for the year ending October 31, 1928, the accounts show that the expenditure, after allowing for all sums chargeable on the income of the year, exceeds the income by £292 10*s.* 3*d.* The sum due to the printers for publications issued and to be issued is £702 4*s.* 8*d.*; this sum is entered among the liabilities in the Balance Sheet, and includes the cost of the volume of *Transactions* now in the press.

Under the heading of Salaries and Wages will be found an increase due to the fact that the Council have engaged the services of a professional librarian who is employed in the cataloguing and upkeep of the library. On the other hand, the heading Library shows a decrease, as this gentleman's salary was wrongly charged against the library last year.

Owing to the large number of Fellows who have taken advantage of the new sliding scale of Life Compositions, the number of annual subscriptions shows a decline, and the amount received for subscriptions has subsequently fallen by over £50.

The Pension Fund, which stood last year at £162 9*s.*, has now been increased to £222 17*s.* 8*d.*, due to a further investment of £50 in 5 per cent. War Stock, and accumulated interest on investments.

The form in which the Accounts are drawn up has been somewhat modified in order that they may put more clearly the financial position of the Society as certified by the Honorary Auditors.

## ROYAL HISTORICAL SOCIETY.

### I.—Income of the Year ending October 31, 1928, and the Charges thereon.

| *Income.* | £ | s. | d. |
|---|---|---|---|
| Subscriptions received for years 1926 & 1927. £53 14 0 | | | |
| *Less* amount estimated to be received in last year's accounts for subscriptions in arrear 40 0 0 | | | |
| Subscriptions in arrear, received in excess of estimate | 13 | 14 | 0 |
| Subscriptions now in arrear estimated to be received | 40 | 0 | 0 |
| Subscriptions of 1928: | | | |
| " " 6 at 20s. | 6 | 0 | 0 |
| " " 5 at 21s. | 5 | 5 | 0 |
| " " 251 at 30s. | 376 | 10 | 0 |
| " " 577 at 42s. | 1211 | 14 | 0 |
| | 1599 | 9 | 0 |
| Life subscriptions 174 6 0 | | | |
| *Less* proportion required by By-law IX to be invested (see Balance-sheet) 116 4 0 | 58 | 2 | 0 |
| Dividends on Investments | 132 | 2 | 0 |
| Interest on Deposit Account at Bank | 23 | 7 | 11 |
| Rentals received | 263 | 8 | 4 |
| Balance, being excess of Expenditure over Income for the year ending October 31, 1928, after including the amount owing to Printers and not paid till 1929; carried to Balance-sheet | 292 | 10 | 3 |
| | £2422 | 13 | 6 |

| *Expenditure.* | £ | s. | d. |
|---|---|---|---|
| Publications: Printing, Distributing, Editing and Indexing £1034 6 2 | | | |
| *Less* received from Sales 86 10 3 | 947 | 15 | 11 |
| Salaries and Wages | 758 | 4 | 0 |
| Rent of Premises, 22 Russell Square | 170 | 0 | 0 |
| Coal | 20 | 16 | 0 |
| Electric Light, Gas, etc. | 19 | 16 | 6 |
| Rates (Parochial, etc.) and Taxes | 187 | 8 | 10 |
| General Printing and Stationery | 74 | 2 | 5 |
| Library: Books, Periodicals, Binding, and Cataloguing | 65 | 8 | 10 |
| Postages, etc. | 25 | 6 | 11 |
| Premises, 22 Russell Square: including painting, repairs, and renewals | 97 | 18 | 0 |
| Insurance (Fire, National Health, etc.) | 10 | 11 | 8 |
| Monthly Meetings, including Party (cost of Refreshments) | 27 | 19 | 4 |
| Alexander Medal | 3 | 5 | 0 |
| Sundries (Petty Cash payments) | 14 | 0 | 1 |
| | £2422 | 13 | 6 |

## ROYAL HISTORICAL SOCIETY.

### II.—Balance-sheet of Liabilities and Assets at October 31, 1928.

| *Liabilities.* | | | £ s. d. |
|---|---|---|---|
| Life subscriptions required to be invested as Capital Account (By-law IX): amount brought forward from last Balance-sheet | £2326 0 0 | | |
| Proportion of Life subscriptions received in 1928 (see Income and Expenditure Account) | 116 4 0 | | 2442 4 0 |
| Pension Fund: | | | |
| Balance from last year | 162 9 0 | | |
| Interest received | 8 15 0 | | |
| Cost of £50 War Stock 5% | 51 13 8 | | 222 17 8 |
| | | | 2665 1 8 |
| [Represented by Consols, India 3½% Stock, Canada 3½% Stock, War Stock 5%, National Savings Certificates, Conversion Stock 4½%, Conversion Stock 3½% and Cash on Deposit—see *contra*.] | | | |
| Subscriptions received in advance | | | 17 14 0 |
| Donation to forthcoming Camden volume | | | 50 0 0 |
| Amount owing to Printers | | | 702 4 8 |
| Balance, being surplus of Assets over Liabilities at date, viz., Amount brought forward from last year | £3788 17 2 | | |
| *Deduct* Pension Fund (as above) | 51 13 8 | | |
| | 3737 3 6 | | |
| *Less* Excess of Expenditure over Income, as per Account I | 292 10 3 | | 3444 13 3 |
| | | | £6879 13 7 |

| *Assets.* | | | £ s. d. |
|---|---|---|---|
| Consols 2½%, £699 9s. 9d. valued at | £314 0 0 | | |
| India 3½% Stock, £900 valued at | 500 0 0 | | |
| Canada 3½% Stock, £300 valued at | 200 0 0 | | |
| 500 National Savings Certificates, at cost | 400 0 0 | | |
| War Stock 5%, £650 valued at | 585 7 8 | | |
| Conversion Stock 4½%, £1100 at cost | 1056 4 3 | | |
| Conversion Stock 3½%, £800 at cost | 601 12 2 | | 3657 4 1 |
| [The current market value of the above investments is £4050] | | | |
| Cash at Bank: Current Account | £136 9 9 | | |
| ,, Deposit ,, | 1045 19 2 | | |
| Petty Cash Balance in hand | 0 0 7 | | 1182 9 6 |
| Stock of Publications at Russell Square (value as insured) | | | 100 0 0 |
| Stock of Publications with Printer (value as insured) | | | 500 0 0 |
| Library (value as insured) | | | 1000 0 0 |
| ,, Manuscripts (value as insured) | | | 100 0 0 |
| Furniture, etc. ,, ,, | | | 300 0 0 |
| Subscriptions in arrear estimated to be received (see Income and Expenditure Account) | | | 40 0 0 |
| | | | £6879 13 7 |

(*Signed*) Charles Johnson, *Hon. Treasurer.*

#### Auditors' Report.

The above Statement of Income and Expenditure and Balance-sheet have been prepared from the Books and Vouchers, and we hereby certify the same to be correct, and to exhibit a true statement of the Society's financial position.

(*Signed*) J. Frederick Chance
Wm. Page
Pretor W. Chandler
} *Auditors.*

# ROYAL HISTORICAL SOCIETY.

(INCORPORATED BY ROYAL CHARTER.)

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Berlin, Institut für Ausländisches öffentliches Recht, Berlin C.2 Schloss.
Berlin, Preussische Staats-Bibliothek.
Bonn, Universitäts-Bibliothek.
Breslau, Universitäts-Bibliothek.
Darmstadt, Hessisches Landes-Bibliothek.
Erlangen, Universitäts-Bibliothek.
Freiburg, Universitäts-Bibliothek.
Göttingen, Universitäts-Bibliothek
Greifswald, Universitäts-Bibliothek.
Halle, Universitäts-Bibliothek.
Hamburg, Institut für Auswärtige Politik, Poststrasse 19, Staats-Bibliothek.
Hamburg, Staats-Bibliothek.
Heidelberg, Universitäts-Bibliothek.
Kiel, Universitäts-Bibliothek.
Königsberg, Universitäts-Bibliothek.
Leipzig, Universitäts-Bibliothek.
Marburg, Universitäts-Bibliothek.
Münich, Bayer Staats-Bibliothek.

NORWAY.

Oslo, The University Library.

POLAND.

Warsaw, Biblioteka Min. Spraw Zagr. (Foreign Office Library).

RUSSIA.

Leningrad Staats-Bibliothek.

SWEDEN.

Göteborg, Staadsbibliothet.
Stockholm, Kungl. Biblioteket.
Uppsala, Kungl. Universitets-Bibliothek.

UNITED STATES.

Albany (N.Y.), New York State Library.
Amherst (Mass.), Amherst College Library.
Ann Arbor (Mich.), Michigan University Library.
Austin (Texas), University of Texas.

Baltimore (Md.), Enoch Pratt Library.
Johns Hopkins University Library
Peabody Institute Library.
Berkeley (Cal.), California University Library.
Bloomington (Ind.), Indiana University Library.
Boston (Mass.), Athenæum.
Public Library.

Brunswick (Me.), Bowdoin College Library.
Bryn Mawr (Pa.), Bryn Mawr College Library.
Buffalo (N.Y.), Grosvenor Public Library.

Cambridge (Mass.), Harvard College Library.
Cambridge (Mass.) Harvard Law School Library
Chicago (Ill.), Newberry Library.
University Library.
Cincinnati (Ohio), Public Library.
Cleveland (Ohio), Public Library.
Clinton (New York), Hamilton College Library.
Columbus (Ohio), State University Library.

Detroit (Mich.), Public Library.
Durham (N. Car.), Duke's University.

Eugene (Oregon), University of Oregon.
Evanston (Ill.), North Western University.

Grand Forks (N. Dakota), North Dakota University.
Grand Rapids (Mass.), Public Library.

Hanover (N.H.), Dartmouth College Library.
Haverford (Pa.), Haverford College Library.
Houston (Texas), Rice Institute Library.

Ithaca (N.Y.), Cornell University Library.

Jersey City (N.J.), Free Library.

Lansing (Mich.), State Library.
Lawrence (Kans.), Kansas University Library.
Lincoln (Neb.), Nebraska University Library.
Los Angeles (Cal.), Public Library.

Madison (Wis.), State Historical Society of Wisconsin.
Milwaukee (Wis.), Public Library.
Minneapolis (Minn.), Athenæum Library.
Minnesota University Library.

Newark (N.J.), Free Public Library.
New Haven (Conn.), Yale University Library.
New York, Columbia University Library.
General Theological Seminary Library.
Public Library.
University Club Library.
University, Washington Square Library, 32 Waverley Place.

Philadelphia (Pa.), Library Company of Philadelphia.
Pennsylvania University Library.
Yarnall Library of Theology, 42nd and Locust Streets.
Pittsburg (Pa.), Carnegie Library.
Poughkeepsie (N.Y.), Vassar College Library.
Princeton (N.J.), Princeton University Library.
Providence (R.I.), Brown University Library.

Richmond (Va.), Virginia State Library.
Rochester (N.Y.), University Library.

St. Louis (Mo.), Public Library.
St. Louis (Mo.), Washington University.
San Francisco (Cal.), Public Library.
San Gabriel (Cal.), Henry E. Huntington Library.
Seattle (D.C.), University of Washington.
Seattle (D.C.), University of Washington Law School.
South Bethlehem (Pa.), Lehigh University Library.
South Hadley (Mass.), Mount Holyoke College Library.
Stanford (Cal.), University Library.

Terre Haute (Ind.), Indiana State Normal School Library.
Topeka (Kans.), Kansas State Historical Society.

Urbana (Ill.), Illinois University Library.

Washington (D.C.), Carnegie Endowment for International Peace, 2 Jackson Place.
Washington (D.C.), Catholic University of America.
Wellesley (Mass.), Wellesley College Library.
Williamstown (Mass.), Williams College Library.
Winona (Minn.), College of Saint Teresa.

## HISTORICAL SOCIETIES IN GREAT BRITAIN AND IRELAND

### WHICH EXCHANGE TRANSACTIONS WITH THE ROYAL HISTORICAL SOCIETY.

Society of Antiquaries, Burlington House, London, W.
Royal Society of Antiquaries of Ireland, 63 Merrion Square, Dublin.
Society of Antiquaries of Scotland, Queen Street, Edinburgh.
The Hon. Society of Cymmrodorion, 63 Chancery Lane, W.C.
Surrey Archæological Society, Guildford.
Jewish Historical Society, Mocatta Library, University College, Gower Street, W.C.
The University, Manchester.
Thoroton Society, Nottingham, c/o Rev. A. T. Cameron, St. Michael's Vicarage, Mt. Hoxton Road, Nottingham.

## HISTORICAL SOCIETIES ABROAD

### WHICH EXCHANGE TRANSACTIONS WITH THE SOCIETY.

#### AUSTRALIA.

Royal Australian Historical Society, Department of Education Offices, Bridge Street, Sydney, Australia.

#### AUSTRIA.

Akad. der Wissenschaften, Vienna.

#### BELGIUM.

Académie Royale des Sciences, des Lettres et des Beaux-Arts, Palais des Académies, Brussels.
Académie Royale d'Archéologie de Belgique, Rue de Witte, 59, Antwerp.
Archives, Hotel de Ville, Antwerp.
Revue Bénédictine, Abbaye de Maredsous, par Maredret.
Société d'Archéologie de Bruxelles, 11 Rue Ravenstein, Brussels.

#### CANADA.

Public Archives of Canada, Ottawa.
Toronto University.

#### CZECKO-SLOVAKIA.

Böhmischen Gesellschaft der Wissenschaften, Alstadt, c. Nr. 562, Prague.

#### DENMARK.

Société Royale des Antiquaires du Nord, Copenhagen.

FRANCE.

Bibliothèque de l'Université de Toulouse, 2 Rue de l'Université, Toulouse Haute-Garonne.
Revue des Études Napoléoniennes. Directeur, M. Edouard Driault, 3 Avenue Mirabeau, Versailles, Paris.
Société de l'École Nationale des Chartes, 17 Rue de la Sorbonne, Paris.
Société de l'Histoire de France, 60 Rue des Francs-Bourgeois, Paris.
Société des Antiquaires de l'Ouest, Rue des Grandes-Écoles, Poitiers.

GERMANY.

Notgemeinschaft der Deutschen Wissenschaft, 3 Schlosz Portal, Berlin.

HOLLAND.

Commissie van Advies voor Rijks Geschied-kundige Publicatien, The Hague.
Historisch Genootschap, Utrecht.

ITALY.

Reale Academia Lucchese di Scienze, Lettere ed Arti, Lucca.
Reale Academia dei Lincei, Rome.
R. Società Romana di Storia Patria, Rome.
Società di Storia Patria per la Sicilia Orientale, Catania, Sicily.

MEXICO.

Museo Nacional, D.F., Mexican Republic, Mexico.

NOVA SCOTIA.

The Nova Scotia Historical Society, Halifax, N.S.

POLAND.

Bibliothèque de L'Institut National Ossolinski Leopol (Lwow).
L'Administration Générale des Archives de l'État, Warsaw, Ul. Dlugo, No. 13.
Polskie Towarzystwo Historyczne, Lwow Universitets (Leopol), Lwow.
Societas Scientiarum Varsaviensis, 8 Sniadeckich, Warsaw.

PORTUGAL.

Academia Real das Sciencias, Lisbon.
Revista de Historia, Av. do duque de Avila, Lisbon. 112.3°.

ROUMANIA.

Academia Romana, Bucharest.

RUSSIA.

Académie des Sciences d'Ukraïne, Rue Victime de la Révolution, Kyïv, Ukraine.

SOUTH AMERICA.

Academia Nacional de la Historia, Carácas, Venezuela.

SPAIN.

Real Academia de la Historia, Calle del Leon 21, Madrid.

SWEDEN.

K. Universitets Biblioteket, Lund.
Kongl. Vitterhets Historie Antiquitets Akademien, National Museum, Stockholm.
The Royal Society of Antiquaries of Sweden, Stockholm.
The University, Upsala.

SWITZERLAND.

Allgemeine Geschichtsforschende Gesellschaft der Schweiz. Stadt Bibliothek, Berne.
Historische und Antiquarische Gesellschaft, Universitäts-Bibliothek.
Tauschstelle der Antiquarischen Gesellschaft, Zentral Bibliothek, Zürich.

UNITED STATES.

American Antiquarian Society, Worcester, Mass.
American Jewish Historical Society, c/o A. M. Friedenberg, Esq., 38 Park Road, New York.
Connecticut Historical Society, Hertford, Conn.
Historical Society of Pennsylvania, 1300 Locust Street, Philadelphia, Pa.
Illinois Historical Society, Springfield, Illinois.
Library of Congress, Washington, D.C.
Maryland Historical Society, Baltimore, Md.
Massachusetts Historical Society, Boston, Mass.
Minnesota Historical Society, Saint Paul, Minn.
New England Historic-Genealogical Society, 9 Ashburton Place, Boston, Mass.
New Jersey Historical Society, 16, West Park Street, Newark, N.J.
New Hampshire State Library, Concord, N.H.
New York Historical Society, 77 Street and Central Park West, New York.
Rhode Island Historical Society, Providence, R.I.
South Carolina Historical Society, Charleston, S.C.
Texas State Historical Society, Austin, Texas.
Virginia Historical Society, 707 East Franklin Street, Richmond, Va.

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